

PUBLIC PETITIONS COMMITTEE

Wednesday 1 October 2003
(*Morning*)

Session 2

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PUBLIC PETITIONS COMMITTEE

5th Meeting 2003, Session 2

CONVENER

*Michael McMahon (Hamilton North and Bellshill) (Lab)

DEPUTY CONVENER

John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Helen Eadie (Dunfermline East) (Lab)

*Linda Fabiani (Central Scotland) (SNP)

*Carolyn Leckie (Central Scotland) (SSP)

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

*Mike Watson (Glasgow Cathcart) (Lab)

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Mr Rob Gibson (Highlands and Islands)

*attended

THE FOLLOWING ALSO ATTENDED:

Sarah Boyack (Edinburgh Central) (Lab)

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Mrs Margaret Ewing (Moray) (SNP)

Rozanne Foyer (Scottish Trades Union Congress)

Christine Ann Gill

Hugh Gill

Philip Immirzi (Prospect)

Mike Pringle (Edinburgh South) (LD)

Veronica Rankin (Scottish Trades Union Congress)

Mr Mark Ruskell (Mid Scotland and Fife) (Green)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

The Chamber

Scottish Parliament

Public Petitions Committee

Wednesday 1 October 2003

(Morning)

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

New Petitions

The Convener (Michael McMahon): Good morning and welcome to the fifth meeting of the Public Petitions Committee in the second session of the Parliament. We have a busy agenda this morning and a number of people are here to cover issues that will generate a lot of discussion, so let us press on.

Yorkhill Hospital (Centre of Excellence) (PE655)

The Convener: Our first new petition this morning is petition PE655. The petition calls on the Scottish Parliament to investigate the resource and other difficulties that Yorkhill hospital faces as a result of its status as a cardiac surgery centre of excellence in Scotland, and asks the Parliament to consider whether it is appropriate for the hospital to continue in that role. I welcome the petitioners, Mr and Mrs Gill, to the committee and I invite them to give a three-minute presentation in support of the petition. They will then take questions.

Hugh Gill: Yorkhill is one of only two national centres in the United Kingdom that deal with paediatric cardiac surgery and interventional cardiology—the other centre is in Birmingham. Yorkhill was awarded the contract for those services after extensive national debate. At the time of that centralisation of services, staffing and resource levels were discussed with management and clinicians at Yorkhill and funded at agreed levels. Staffing levels and funding for all national services are reviewed annually by service providers.

Staff were not transferred from Edinburgh to Yorkhill when the service was centralised and posts have not yet been filled, although the normal recruitment process has been followed. Consultants are not only working long hours, they are also authorised to work in the private medical sector, which will obviously affect their judgment and decision-making powers. There seems to be no limit to the hours that they are permitted to work. Hospitals are simply desperate because of staffing shortages.

Yorkhill's emergency department and intensive care unit were constantly full to overflowing with children requiring cardiac care and the waiting lists got longer. Yorkhill's leading cardiac consultant explained that the main problem was to do with new technology, which enables children, especially children requiring cardiac surgery, to be saved who would previously have died. That means that beds are being held for longer, which creates a lack of specialist nursing staff and doctors for new patients. The "Magic Million" appeal, which was launched in the national press, asked the public to raise £1,000,000 to help fund the expansion of Yorkhill's intensive care unit. However, the public are not aware of the true reasons for the expansion. The situation has not been caused by an increase in births of babies requiring cardiac surgery.

The current statistics in the following areas urgently need to be reviewed: deaths; negligence cases; overcrowding; staffing levels; complaints; and cardiac treatment waiting lists. The petition therefore calls on the Scottish Parliament to investigate the current resource and other difficulties being faced by Yorkhill as a result of its status as a centre of excellence, and to consider whether it is appropriate for the hospital to continue in that role.

Ms Sandra White (Glasgow) (SNP): You mentioned that staff had not transferred from Edinburgh, which suggests that Yorkhill is understaffed. Is that true, to the best of your knowledge?

Hugh Gill: Yes.

Ms White: Have you raised that with the board of Yorkhill? Have you met the board regarding your concerns?

Hugh Gill: We submitted the petition because we wanted to raise the issue first in the Scottish Parliament and take it onwards from that point. We have not approached medical directors in Yorkhill hospital.

Carolyn Leckie (Central Scotland) (SSP): Have you lodged any complaints in relation to specific incidents?

The Convener: That question cannot be answered at the moment, because the matter to which the answer would refer is currently sub judice. We cannot go into specifics.

Carolyn Leckie: I am asking only whether there is an on-going case.

The Convener: There is.

Carolyn Leckie: I am interested in the reasons behind the decision to centralise cardiac surgery in Yorkhill. Have you researched those reasons? If so, how do they measure up to the performance of

Yorkhill following centralisation? Have you approached anybody to determine how that has been audited?

Christine Ann Gill: Although we have personal reasons for taking up this matter, the petition is completely separate from that and has nothing to do with our personal circumstances.

Since centralisation of the Edinburgh and Glasgow services, every child requiring cardiac surgery in Scotland must go to Glasgow. Before that, they would have gone either to Edinburgh or Glasgow, so the load was shared. Unfortunately, when the doctors did not follow the service to Yorkhill, it meant that the premises, as well as the staffing, were inadequate to cope with demand.

Carolyn Leckie: I have one more question. You might be aware that the specialist staffing issue throughout the NHS, particularly in paediatric services, is a big national issue. Are you aware that the health board knew that certain specialist staff, including consultants, intended not to move with the service?

Christine Ann Gill: The service did not move because of the personal circumstances of the main consultants. There were a number of reasons why they did not come to Yorkhill, but it was not that they were not needed; rather, it was that they were unavailable.

Carolyn Leckie: I am trying to get at whether, prior to the final move to a centralised service, that was known about.

Christine Ann Gill: No.

10:15

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning, folks. I would like to pose a question in simple terms. Yorkhill hospital was declared to be the centre of excellence for cardiac surgery. That implies that more and more patients would be treated in that facility. Do you accept that higher throughput of patients has led to the percentage increase in cardiac deaths and complaints about the hospital?

Christine Ann Gill: I am not sure whether—

Hugh Gill: Could the member please repeat the question?

John Farquhar Munro: Is the incidence of problems at the Yorkhill hospital more severe than it was prior to the hospital's being established as a centre of excellence? Given that a higher number of patients are being treated at the hospital, would not we expect the statistical probability that problems will increase?

Hugh Gill: Why would we expect such an increase? I would not like to hear that. If the

hospital was properly resourced, it would have a chance of battling the issue.

Mike Watson (Glasgow Cathcart) (Lab): I echo Mr Gill's last point. I would have thought that the opposite would be the case. Surely that is the whole point about centralisation? Have you been in contact with the greater Glasgow local health council? It is usually fairly vocal in taking up a wide range of issues in the NHS in Glasgow, including hospital closures and the redirection or refocusing of services. As a member who represents a Glasgow constituency, I find it surprising that the issue has not been raised with me. What level of complaints have you received from other people about the failure—as you characterise it—of the service following centralisation?

Hugh Gill: This is the first opportunity that we have been given to discuss the issue. I am aware that there might be other channels, but we were not aware of them when we submitted the petition. Over the past year and a half, we have been quite frustrated by the way in which things have been building up in the NHS, including what has appeared in news articles and especially what has happened at Yorkhill. We thought that the Parliament was the only channel we could use to approach the issue. It would be useful to understand the other channels that are open to us.

Linda Fabiani (Central Scotland) (SNP): I find the stark statistics that are laid out in petition PE655 worrying. Before we can take a view on the subject of the petition, we need much more background information. I suggest that we try to get information on the issue from all sources. We should reconsider the petition once members are better informed about it.

Hugh Gill: We tried to approach Yorkhill at director level to ask for the numbers and we have it in writing that the numbers on specific cases are not available. It would be useful if someone else could get the information.

Linda Fabiani: Perhaps we could do so by writing to the Executive and the hospital.

Carolyn Leckie: I echo what Linda Fabiani says. I am sympathetic to some of the points raised in the petition and, as she is, I am concerned about the statistics. In the wider context, the argument that is being put forward for centralisation of many specialist areas across health boards is that, contrary to what John Farquhar Munro says, centralisation increases safety, improves clinical standards, improves quality and avoids tragedy. The argument is that, because of the shortage of certain specialist staff, those staff are diluted throughout the service and need to be centralised in one area. What you have told us seems to run directly contrary to that.

I would be interested to find out about the consultation; I would need to check the background information on that myself. I would like to know what the outcome of the consultation was, what circumstances led to the current staffing levels and what those staffing levels are. It concerns me that although you have sought information from the trust—at whatever level—it has not been forthcoming. I do not know who your local MSP is, but I suggest that you should, if you have not already done so, speak to him or her. Under the auspices of your MSP, you might be able to elicit a bit more information and the committee might be able to take matters further.

Hugh Gill: If centralisation at Yorkhill is a model for centralisation of other services, there is an opportunity to benchmark it and to understand causes and effects. That information could be used as a lesson on whether centralisation is the most effective solution financially and in terms of service to the public.

Ms White: I echo what Carolyn Leckie and Linda Fabiani have said. I am interested in staffing issues. In centralisation from Edinburgh to Yorkhill, I would have thought that the first thing to be settled would be the number of staff who would have to transfer to departments as important as cardiac care and paediatrics. If we are writing to the Executive or to the hospital, we should ask exactly what recommendations were made regarding consultants' not moving from Edinburgh. I would be interested to hear how many staff did not transfer and their reasons for not transferring. I would like to know how they can call Yorkhill a centre of excellence if it is running below the appropriate staffing levels.

The Convener: Linda Fabiani suggested that we write to the Executive and to the hospital, and Sandra White has specified the type of information that we should ask for when we write to them. Do other members have any suggestions about the action that we should take? Are members content with those recommendations?

Mike Watson: Perhaps we should wait until we have received a response from Yorkhill before we write to the Executive. We could use the hospital's response as the basis for taking the matter further, if necessary.

The Convener: Do you want to defer writing to the Executive until we have written to Yorkhill?

Mike Watson: I would like to see what Yorkhill has to say. Some fairly serious allegations have been made and I want to see what the hospital's figures are. It is on the basis of those figures that we would go to the Executive.

The Convener: I understand what you are saying, but my feeling is that if we wrote to both organisations we could compare their answers. If

there is a discrepancy between the answers, that would give us something to discuss.

Mike Watson: Okay, but the first step before we write to the Executive has to be to ask Yorkhill what the situation is.

Linda Fabiani: The Executive's asking questions plus our asking them should add strength to the case and make it harder to hide any information.

Mike Watson: That is fine—I can go along with that.

The Convener: Is everyone happy with that?

Carolyn Leckie: I stress that we will need to be very specific in the questions that we ask about points that were raised about staffing, consultation, centralisation and who moved where. We need to ask for all the statistics in relation to that hospital's mortality rates, complaints and any other outstanding matters. We must be specific rather than general.

The Convener: Are members agreed?

Members indicated agreement.

The Convener: I thank the petitioners for coming this morning.

Scottish Natural Heritage (Relocation of Headquarters) (PE670)

The Convener: The next petition, PE670, is from the Public and Commercial Services Union. The petition calls on the Scottish Parliament to investigate the decision by the Scottish Executive to relocate the headquarters of Scottish Natural Heritage to Inverness.

Members should note that PE670 is the first petition to have been submitted via the Parliament's e-petitioner web page. The petition gathered 2,253 signatures, almost 600 of which came from outwith Scotland. As you know, the e-petitioner system provides a forum for online discussion of the issues that are raised in a petition, and 24 comments have been entered on the subject of PE670. Most commentators appeared to support the petition; the few that did not focused on the general issue of decentralisation, rather than on the particular matter of the SNH relocation.

We have Philip Immirzi with us this morning. He is a union member at SNH, and I welcome him to the committee. You have three minutes, after which we will ask questions.

Philip Immirzi (Prospect): I preface my main remarks by saying that Alan Denney, the national officer of Prospect, who is acting on behalf of both unions involved in this case, was unable to attend today. He would have been presenting the petition but he has, apparently, broken his leg.

Thank you very much for inviting us to present the petition today. Members will no doubt be aware of the considerable interest that the decision to relocate SNH's headquarters to Inverness has aroused. Given the time constraints, we do not propose to rehearse all the background information, much of which is already publicly available. Rather, we wish to concentrate on a number of key issues and on what we believe should happen.

Since the decision was announced in March, we have witnessed a number of developments that seriously question its logic. The relocation could cost something like £30 million, which is about £10 million more than was originally estimated. The SNH board did not believe that that represented good value for money and had deep reservations about it. There is a possibility that Scotland's leading environmental agency could be relocated on a greenfield site.

Throughout the process, ministers appeared to be unaware of the fact that staff in non-departmental public bodies do not have the same rights as civil servants and cannot be transferred to other parts of the civil service. Finally, and importantly, the loss of a large number of key staff will seriously damage the operational efficiency and effectiveness of SNH for the foreseeable future. That demonstrates that the decision appears to have been taken without properly considering the full consequences. The review that was conducted by SNH did not, in fact, support the idea of moving to Inverness; indeed, the consultants, the management and the board discounted its being a viable option.

The Executive policy on relocation lays out a number of criteria, central to which is the need to ensure that any such move does not impair the operational effectiveness and efficiency of the organisation. It is mystifying, even to the well-informed observer, that the decision can apparently satisfy that criterion, given that 80 to 90 per cent of staff will not move to Inverness.

The PCS and Prospect entered the exercise with two aims in mind: first, to protect members against redundancy and compulsory transfer and secondly, to assist with any necessary dispersal of jobs from Edinburgh to other parts of the SNH estate, taking into account concerns about operational efficiency and about redundancy and compulsory transfer. The unions believe that it is important for civil service jobs not to be centralised in Edinburgh, in the same way that they did not in the past want them to be centred in London. However, for dispersal to work, it has to be done properly, through consultation and involvement. It cannot be forced through with the threat that staff will lose their jobs. Dispersal must also ensure that services are not merely maintained, but improved.

For the foreseeable future, it looks as though they will, in fact, be impaired. Dispersal must be done in a way that balances costs and benefits. It would also help if decisions were made with full knowledge of where an office could be built, and indeed of whether one could be built.

Our concern is that the Executive has not followed its own policy, which puts that policy at risk. We believe that to look into what has happened with SNH over the last six to nine months would teach us some very valuable lessons. Ministers have not so far shown willingness to re-examine the decision and seem to be confused about some key aspects. We therefore call on the Parliament to scrutinise the decision, to get it seriously moderated or reversed and to ensure that the policy works in future. All parts of Scotland could and should benefit from the dispersal of public sector jobs, but the cost of the SNH dispersal—almost £100,000 per job, which is what the £30 million equates to—does not convince us that the policy is being followed properly.

10:30

The Convener: On behalf of the committee, I put on record our best wishes to Mr Denney for a speedy recovery.

We are joined this morning by Sarah Boyack, Susan Deacon, Mike Pringle and Fergus Ewing, who have indicated that they are interested in speaking to the petition. However, I invite committee members to ask questions first.

Carolyn Leckie: I am sympathetic to the petition as far as the threat of compulsory redundancy and transfer is concerned. I want to understand a bit more about the composition of SNH staff throughout Scotland—my understanding is that a number of workers are already located throughout the country. Will you give me a bit more information about what sorts of jobs are located throughout the country, the current skill mix and the current balance between jobs in Edinburgh and jobs elsewhere?

Philip Immirzi: A lot of that information is in the report by DTZ Pineda Consulting Ltd, which is available on the SNH website. However, I will give you a rough-cut impression of how SNH is organised. We have a head count of some 850 staff, of whom 70 per cent are based outwith Edinburgh. Within Edinburgh, we have a complement of about 270 people. The staff in Edinburgh are largely headquarters functionaries, support services staff—information technology services, personnel and various other corporate services or common services—and a substantial proportion of the research, scientific and technical staff who provide support services to our

operational areas. That said, some 40 per cent of our headquarters staff are already located outside Edinburgh. To talk of Edinburgh as the headquarters is, therefore, perhaps a misnomer.

Mike Watson: When the decision to relocate the Scottish Natural Heritage headquarters was taken, I was a minister. I was party to the decision, although I was not a minister in the relevant department. I was in favour of the decision then and still think that it was the right thing to do, but I have concerns about some of the points that are made in the petition. We are told in the background information to the petition:

"Despite assurances by Ministers, SNH has not been free to enter negotiations with unions to avoid the need for compulsory redundancies."

With whom have discussions taken place in terms of the normal employer-employee relationship?

Philip Immirzi: The decision was made by ministers. SNH consulted staff fully during the process up to the point that its advice to ministers was made. SNH's record is pretty good on that point. I believe that there was then a long hiatus in which it was not possible for the unions to discuss matters pertaining to the decision. I believe that that situation has recently changed and that the unions are now in negotiation with management.

Mike Watson: Are they in negotiation on the question of compulsory redundancies?

Philip Immirzi: Yes. That is a recent improvement in the situation.

Mike Watson: You also said that the unions accepted the basic policy of dispersal—I have noted this down, so I hope that I am quoting you accurately—but that the policy cannot be forced through using the threat of jobs' being lost. What did you mean by that? Is it simply the rather blunt point that someone who is not willing to move to Inverness will lose their job? Has the matter been as black and white as that?

Philip Immirzi: Quite simply, yes. We are public servants, we are not civil servants. SNH is a quango, and its staff do not have the right of transfer to other parts of the Executive. That means, in effect, that we will be made compulsorily redundant if we are unwilling to move.

Mike Watson: What about relocation within other parts of SNH? You have said that the organisation is already fairly well dispersed. There must be other possibilities for staff dispersal within existing offices in other parts of Scotland.

Philip Immirzi: To its credit, SNH has pursued that policy for many years, although perhaps not as explicitly as it could have done. Although we have a system of some 40 offices around the

Highlands and Islands of Scotland, all those offices have a critical mass of people. It would therefore be difficult to effect a move of that scale over such a short time frame, but it is a possibility.

Mike Watson: I have a final general point that relates to what you have said. Historic Scotland is an executive agency rather than a quango. Would such status be more appropriate for SNH, as it would give staff the right of transfer?

Philip Immirzi: I do not want to pass judgment on that, as I am not mandated to do so.

Jackie Baillie (Dumbarton) (Lab): I apologise for the fact, of which I gave the convener notice, that I have to attend a meeting of the justice committees on the budget this morning, so I have come hotfoot to this committee for this petition.

I apologise for missing your opening presentation, but I would like two issues to be clarified. First, you talked about recent meetings with management. I make a distinction between the management of SNH and ministers. What meetings or discussions were had with ministers, given that the decision was political until it was announced?

Secondly, I take your point that SNH does not have headquarters per se and I am conscious that many of its employees work in Clydebank. If the headquarters is moved to Inverness, is that likely to have an impact on employees in Clydebank? That would mean that repercussions were felt well beyond Edinburgh.

Philip Immirzi: I believe that Ross Finnie gave the unions a hearing before the decision was made some time in March. That was the unions' only opportunity to talk formally with a minister. The unions have made several informal approaches, but another formal meeting has not taken place. Does that answer your first question?

Jackie Baillie: Yes.

Philip Immirzi: As for impacts on other parts of SNH, if the logic of relocation and all its possible consequences are followed through, an impact on other offices is likely. The unions are particularly concerned that such changes need to be factored into the equation.

Sarah Boyack (Edinburgh Central) (Lab): I thank the convener for letting me speak at the meeting. I am interested in the issue as a constituency representative because, last October, I started to receive floods of letters from concerned staff who were hearing rumours about a move. I have followed the matter carefully and read the consultants' report. Having read the consultants' report, do the unions have views on why the decision was taken? I understand that other options were considered in the context of the dispersal policy, but the staff to whom I have

spoken are not clear about why the other locations were picked and why the final decision was made, given its cost implications. The sum of £30 million is substantial and ministers have yet to clarify who will pay that.

I would like a point about redundancies to be clarified. You said that a meeting was held with ministers, but I am conscious that the First Minister made a statement that no compulsory redundancies would be imposed. Have the unions been able to follow that up? That was of potential reassurance to SNH staff, but I have seen no clarification of that comment's status or effect. You said that your members are not allowed to move to other parts of the civil service, but I think that the First Minister reassured my constituents about that. Have you carried out a survey among your members on the potential impact of the move? I have received some heart-rending letters about people's family circumstances and the time scale.

How do you feel about the ministerial directions to the board of SNH and the chief civil servant overseeing the move? What will the organisation's future mean for the staff? The time scale is short and there are real concerns about the effect on SNH's operations in what has already been a year of great uncertainty for staff.

I will stop there as I know that other members have issues to raise as well.

Philip Immirzi: I will answer those questions in reverse order and you will forgive me if I forget what the first question was by the time I have answered the later ones.

The ministerial direction imposes a fairly rigid time scale for the project. That is obviously a big concern for staff because opportunities for consultation and involvement will be compressed into a very restricted time. I have a great deal of sympathy for managers who have to act on the decision within such a rigid time scale. The unions remain concerned that the time scale will not permit full consultation with, or involvement of, staff.

You mentioned that the First Minister had given a reassurance that efforts would be made to minimise compulsory redundancies. The union remains completely unassured that that can happen—because of the way that a non-departmental public body is structured. We are public servants not civil servants. We have no rights of transfer. We are mystified as to how compulsory redundancies can be minimised—unless there is some new idea that has not yet been shared with the unions. I cannot speak on behalf of management, but I do not believe that such an idea has been shared with management either.

That leads me to the first question.

Sarah Boyack: Do you need a quick reminder? SNH's headquarters is in two buildings in Edinburgh, not one. The consultants' report gives five different options: relocation to elsewhere in Edinburgh and four other options. As I understand it, the Inverness option was the least popular among staff during the consultation process and the most expensive by a significant amount. What are your views on the robustness of the selection process and the criteria used by ministers in reaching the final decision?

Philip Immirzi: The report contains many interesting facts and alternative interpretations are possible. However, fact number 1 is that Inverness was, taking financial and non-financial criteria together, the worst option. On financial criteria alone, Inverness was not one of the best options—the do-nothing option was significantly better.

There were problems in undertaking a steady-state cost-benefit analysis of the options. Certain assumptions had to be made. However, the sensitivity analysis in particular showed redundancy costs to be the critical factor making any move from Edinburgh seriously uncompetitive. The sensitivity analysis was overlooked and that was a deep concern.

We should bear it in mind that SNH wished to undertake an analysis of locations where it could meet its remit efficiently, effectively and economically. Ministers obviously had to base their decisions on a number of other considerations. However, we are concerned that those considerations were never made public, which means that we do not know the basis of the decision in terms of economic development. We have demonstrated on the grounds of operational effectiveness and efficiency that it would be unwise to move very far beyond Perth. We are mystified about how the decision was reached. There has been a complete lack of transparency.

10:45

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I am grateful to the committee for the opportunity to speak and will preface my questions with a few comments. First, I should note for the record that the petition is supported by a substantial number of MSPs from all political parties and none. The fact that not all those MSPs are Edinburgh members reflects the degree of concern on this matter.

Like Sarah Boyack, I have taken a very close interest in the issue not only because my constituency is directly affected but because I was involved in drafting the dispersal policy in the early months of the first parliamentary session. Indeed, Sarah, too, was a minister at that time. As a result, it is important to stress that many of us who

support the petition are also enthusiastic supporters of the dispersal policy. Our concern centres on whether the policy is being implemented effectively on this occasion. It is my considered opinion that both the substance and the handling of the decision are very badly flawed and the fact that there have been two ministerial directions—one to the SNH board and the other to the senior civil servant involved—which is quite unprecedented, speaks volumes.

I was particularly interested to hear the union's concern that the wider policy might be undermined because of the way in which this decision has been handled. How will the experience impact on the significant number of potential relocation decisions that are now pending? I understand that in the light of recent experience other trade unions and indeed the Scottish Trades Union Congress are taking a close interest in the matter and I would be grateful if you could add any information.

I would also welcome further details and clarification about the nature and timing of decisions that remain to be taken. I am aware of the widespread perception that because the ministerial direction has been made the decision has been finalised. However, as far as I understand it, the ministerial direction still requires the SNH board to draw up a plan for the move. Will you elaborate on whether there is scope within the plan for any change of heart or direction on what has been stated?

Finally, I have heard people explicitly justifying the relocation by saying that Inverness is a suitable location for an environmental agency because it is rural and so on. However, I am aware that people who work in the field rail against such a caricature because a substantial effort is being made to deal with the natural heritage of urban as well as rural Scotland. As someone who is directly involved in that work for SNH, will you comment on that?

Philip Immirzi: You have asked three big questions. As I can speak on the relocation issue only from my personal experience and exposure to it as an SNH Prospect representative, you will forgive me if I give the union's perspective on things.

The SNH decision and the lack of transparency with which it has been made cast serious doubt on how such decisions will be made in the future. That is a key reason why we are taking this forward as a generic issue as much as a specific issue about SNH. We want the rationale for such decisions to be examined to ensure that future decision making delivers the objectives that it sets out to achieve. We believe that the impact of the decision seriously undermines the policy. On that basis, we want the decision to be examined in greater detail.

Given the direction's immediate requirement on SNH management to develop a fairly worked-up proposal to effect the move in order to get sufficient resources to make the move happen, I believe that the time scale is exceedingly tight. I have already alluded to the fact that sufficient time has not been given for proper participation by staff and unions in the process. I am sure that SNH management is committed to being as helpful as possible—that has been our experience—but the time constraints are so serious that they frustrate that ambition to be fully participative and to involve staff.

Within your question was an embedded question about whether the move could be in some way moderated and whether we could somehow find a happy medium. We see no evidence that any fewer than some 220 staff, or 220 posts, will be moved to Inverness. As far as I am aware, that is the basis on which the management is preparing a project proposal. There is no indication whatever that the decision can be moderated at this stage.

Finally, you asked for comment on the wider perception that SNH, as an environmental agency, may have a better fit with Inverness than with Edinburgh, Perth or Stirling. Interestingly, the majority of people in Scotland live in urban areas and it is their behaviours, decisions and patterns of living that have an impact on the environment out there—whether that is in the Highlands and Islands or closer to home. The people whom we want to influence are as much in the central belt as in the Highlands and Islands.

To SNH's credit, it has architected an organisation that is close to the communities that it serves. We have offices in the Highlands and in many of the islands where other public agencies are not present. In effect, it does not really matter where the headquarters is, because we are out there, close to the communities that we wish to serve. The decision seriously undermines some of the objectives behind that important ideal.

The Convener: Mike Pringle has a question, and he will be followed by Fergus Ewing. We need to start getting recommendations on what to do with the petition as we have discussed the issue for some time now.

Mike Pringle (Edinburgh South) (LD): I thank the convener for allowing me to speak, although some of my questions have already been raised. Let me start by saying that both Jeremy Purvis and Margaret Smith, who would have liked to have been here today, apologise for not being present as they are both at other committees. One of them is at the committee that Jackie Baillie has just come from.

I will ask a couple of questions and then make a comment. I reiterate what Sarah Boyack said. The

SNH headquarters is in my constituency, so I have received a number of letters from constituents that are really heartfelt pleas asking us to do as much as possible to keep those jobs here. Members should see the letters.

I will focus on staffing. I understand that management did a survey some time ago to investigate how many staff would not relocate. I do not know whether you have that figure. Could you tell us a bit about that?

The other point that we discussed was the unions' meetings with ministers. I do not know whether you can answer this question. Do you have any idea about the meetings that management has had in the period before and since the election? Also, could you give an opinion about the effect that the exercise will have on the lives of staff?

Philip Immirzi: I will take the first question first. The DTZ report, to which I alluded, provides all the evidence that you need to know how many people have indicated that they will not move to Inverness. One figure that is being used is that 75 per cent of staff have indicated that they will not move. That statistic deserves closer scrutiny, because another figure is portrayed in the same report in relation to the Scottish Public Pensions Agency. It indicated that a high proportion of those who said that they would consider moving did not move. That is why you will see figures that show 80 per cent to 90 per cent of staff indicating that they will not move. The figure for staff who have indicated that they will not move is clearly somewhere between 75 per cent and 90 per cent. That is a clear statement of the staff's feeling about where they want to work.

The second question is a little more difficult for me to answer because I am not privy to all the meetings that have taken place. My feeling—it is very much a feeling rather than factual evidence—is that insufficient dialogue took place before and after the decision was made. I will leave it at that.

Mike Pringle: Having had a number of meetings with managers I would say that that is certainly their view.

What effect is the decision having in terms of the employment of staff at SNH and staff leaving?

Philip Immirzi: It is difficult to put a finger on the number of staff who are leaving, but I can certainly make a comment on staff morale, which is at an all-time low. The outlook is very gloomy and staff are uncertain about their future. A good half of the staff have made a career in nature conservation and the environment and they are not sure what will happen to them and their families.

Mike Pringle: I will make a brief comment about the ministerial direction. I understand that the

direction to the senior civil servant and to SNH is a unique event; it has never happened before. The cost is estimated to be £30 million—I am sure that we are all aware of a current project that has started at £40 million and has ended up at £400 million. I have always suggested that the estimate of £30 million is seriously on the low side for the impact that the move will eventually have, in view of the fact that SNH is having problems finding a new headquarters in Inverness. Inverness's economy is almost as overheated as Edinburgh's is.

I wrote to Robert Black, the Auditor General for Scotland, to ask him to investigate the decision taken about the public money that will be spent on this exercise. It seems to me to be ludicrous that he cannot investigate the use of public funds until the money has been spent. I would have thought that there must be some way for the Auditor General for Scotland to ask whether spending money on this exercise is in our best interests, but apparently the money has to be spent before he can say that it was a bad decision. That seems to be a mixed-up way of going about things.

11:00

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I start by saying that I entirely respect the views of the constituency representatives whom we have heard sticking up for their constituents' interests. As a matter of courtesy I have sought to reply to employees from Edinburgh who have written to me, although I would of course never take up their case.

I am sure that no one has meant to criticise Inverness, but it seems that a pall has hung over the conversation so far. I reassure members that Inverness is not Scotland's gulag. It is not ice station zebra and I have not noticed any salt mines there. Inverness is a great place in which to bring up children and to live—all of human life is there.

A long time before this decision was taken—during the review process—I met the chairman and chief executive of SNH and argued that functions such as the new outdoor access code should be relocated. I did not argue for relocation lock, stock and barrel. However, as the constituency MSP, I support the decision that has been taken. I hope that the 75 per cent of staff who said that they would not move from Edinburgh will find a warm welcome in Inverness, should they decide to come.

I want to ask one question that seems fundamental to the issues that have been raised this morning. What explanation and justification exist for the decision that has been taken? From the consultants' report, we know that Inverness

was not the recommended option. We believe that the civil service did not recommend Inverness and we assume that it recommended that SNH should not move there. As we all know, there are suggestions that the decision was taken shortly before the election for entirely party-political reasons. Does the PCS believe that there should be full disclosure of all the civil service advice and documents that were given to ministers, and of internal memoranda and other documents—that is to say Cabinet papers? Only such disclosure will allow us to see why the decision was made. Would the PCS support such a move in order to arrive at the truth? If so, the documents could be made available to the Finance Committee, which is shortly to investigate this matter, as I am sure the witness is aware.

Philip Immirzi: Both unions—the PCS and Prospect—would find full disclosure most helpful. No stone should be left unturned.

Fergus Ewing: The difficulty is that access to this information is governed by a code that states that such documents—namely, civil servants' advice and ministerial and Cabinet papers—should normally be kept confidential, to ensure the candour of internal discussion. However, there is a discretionary power, which has never been used, for the Scottish Executive to open up the books and make public all those documents. For there to be such disclosure, the Scottish Executive—the Labour-Liberal coalition—would have to say positively that public interest in this matter is such that the risk of any harm resulting from disclosure is vastly outweighed by the concerns of the people whom you represent. Do the unions believe that the Scottish Executive should use its discretionary power in this case, open up the books and make public all the documents involved?

Philip Immirzi: The simple and short answer is yes. We think that the principle of open government should apply to all decision taking.

Helen Eadie (Dunfermline East) (Lab): I apologise to the petitioners for arriving late. I had a prior meeting to attend and intimated to the convener that I would be late.

I signed the motion that was lodged by Sarah Boyack because I, too, have constituents who are very concerned about the issues that we are discussing. I support whole-heartedly the Scottish Executive's policy of relocation, but I have profound concerns about the way in which the relocation of SNH has been handled. I refer to the handling of the matter by ministers, rather than by SNH or Scottish Executive officials. It smacks of the worst kind of industrial relations that we have seen in this country for a long time. We have to have profound concerns when we see employees being handled so unsympathetically,

The PCS has a long history of negotiations in the civil service. How do you rate the handling of this situation in the context of all the other negotiations with the civil service that have taken place in recent years?

Philip Immirzi: I am an employee of SNH rather than of Prospect or the PCS. I have taken a particular interest in the issue of the consultation, involvement and participation of employees in decision making and the impression that I have formed is that this decision is one of the worst.

The Convener: I will take a final question from Carolyn Leckie and then ask for recommendations as to what we do with the petition.

Carolyn Leckie: I will finish off by making a recommendation, to save you coming back to me. I would have the same concerns about the work force if we were talking about workers in Inverness being transferred to Edinburgh. The issue is not about the merits or demerits of a particular city, town or village; it is about employment rights and that has to be our major concern.

We need to address the contradictions in ministers' statements that have been made in the past and seek clarification. We also need to seek the Executive's response to the prospect of 200 people not moving to Inverness and what that would mean for the future of SNH and its ability to function, if this disaster were to unfold.

I support the call for the petition to be referred to the Finance Committee. In view of the urgency of the situation, we also need to make strenuous representations to the Executive to tell us what it thinks, particularly with regard to previous guarantees that have been made on compulsory redundancies and transfer into the civil service. We need to pursue that.

Philip Immirzi: I will comment briefly. We have laboured the point about the financial costs, but there are huge intangible costs as well. There is no doubt that SNH's reputation will be affected. There are costs in relation to human resources. Experience has been built up over the past decade to establish an organisation that is pretty effective. We have good evidence that SNH is respected among key stakeholders and partners. The move will be particularly damaging in terms of the loss of scientific and technical expertise. A lot of that is intangible and a price cannot be put on it. There is no doubt that the move will be damaging to the organisation's future operational effectiveness, from two years before the move until three years after it. The organisation will have to build a completely new culture and that cannot be done overnight.

Jackie Baillie: I have a couple of suggestions. I echo Carolyn Leckie's point that the issue is not about constituency interests; it is about whether

the move is the correct strategic decision and whether it represents value for money in the pursuit of the dispersal policy. There is the specific issue of SNH and the much wider issue of the general policy of dispersal, for which a number of members, including me, have indicated support.

The Finance Committee is investigating the general policy and it is appropriate for us to refer the petition to that committee, given that what has happened with SNH could be an example of how not to do things. I wonder whether the Audit Committee might also have a role in considering the petition. I heard what was said about the Auditor General, but there must be an opportunity to scrutinise the specific decision in terms of the ministerial directions, which are unique. After all, the budget process is open to scrutiny the minute that the Executive starts to spend money rather than only after we have completed the budget.

The Convener: I suggest that we condense the issues that Carolyn Leckie and Jackie Baillie have raised. The Finance Committee has shown an interest in considering the petition. However, I am concerned about muddying the waters by writing to the Audit Committee to ask it to consider the petition and by writing to the Executive to ask questions. Would not it be better if we asked the Finance Committee to consider the petition, specifying the questions that we would like it to ask the ministers? We could also ask the Finance Committee to ask the Audit Committee to have a look at the petition. In firing off letters to different committees and personnel asking for responses, we might create a crossover that would not, ultimately, be helpful. Instead, we could contact the Finance Committee with recommendations on the specific points that have been made today, asking it to investigate the matter.

Jackie Baillie: I find that acceptable on the understanding that the Finance Committee would not just take SNH as an example, but focus on the case of SNH.

Sarah Boyack: I support that. From what I have heard, the Finance Committee is interested in the overall policy and, like other members, I believe that that is the right approach. However, there are substantial questions about the process that is being applied and whether ministers have, in issuing their directions, met the criteria that have been set for the Executive on efficiency and effectiveness. As long as our recommendations are clear, that course of action will be helpful to everybody concerned.

Fergus Ewing: As a member of the Finance Committee, I know that it is looking forward to studying the general principles and criteria that have been set out as well as the individual case of SNH. The minister will, no doubt, appear before the Finance Committee and members of the

Public Petitions Committee will be able to come along and add to the general grilling.

I have a specific suggestion that arises from the very clear and unequivocal response from the witness to my questioning. Without an explanation of why the decision was made, we will be in the dark. Only if there is full disclosure of documents that, hitherto in the history of the Scottish Parliament, have been kept under wraps will we have any chance of finding out why the decision was made. I suggest that, in the light of the evidence that has just been taken, the committee encourages the Executive to think seriously about the recommendation that I made—which has been adopted by the union that is representing the work force—that there should be full disclosure, so that we can find out why the decision was made. That would, no doubt, provide the Executive with an opportunity to dispel any suggestion that party politics played any part in it.

The Convener: As you are a member of the Finance Committee, Fergus, you could ask the minister that question.

Fergus Ewing: I certainly will, but we want to get to the truth and the Public Petitions Committee has the option of making that recommendation. I am putting it to the committee that it should consider doing so. It is up to the committee to decide, but I cannot help feeling that no progress will be made on the issue unless we have sight of those documents. We all know that that is the case.

The Convener: The responses that members have received from the petitioner have raised issues that we would want to recommend should be raised in any inquiry. That is a legitimate course for the committee to take. However, as a member of the Finance Committee, Fergus Ewing can pursue the specific interest that he has in the matter. It is not for the Public Petitions Committee to tell the Finance Committee—or any of its individual members—to pursue that specific interest. The committee's recommendations should focus on the questions that Carolyn Leckie and Jackie Baillie have raised and on the possibility of asking the Audit Committee to consider the petition. The recommendation is that we ask the Finance Committee to investigate the matter in the light of the information that we have received.

Carolyn Leckie: I hope that the Finance Committee will aggressively pursue all documents that relate to the issue.

The Convener: I would take that as a given.

11:15

Susan Deacon: I am relaxed about who raises questions where, but I agree with everyone who

has spoken about the urgency of the matter. We are at the end stage of the process of making the decision. Whether it is this committee or the Finance Committee that takes action, I want to stress the point that we should tell the Finance Committee that, in the context of its on-going investigation, it is critical that the Executive be made aware in the next few weeks of concerns such as those that have been raised today. The Executive should be asked, if not to make a full disclosure, at least to give an explanation of its decision soon. If not, further milestones will be passed.

The Convener: I suggest that we write to the ministers not to ask specific questions but to advise them of the questions that have been raised this morning.

Carolyn Leckie: I thought that Susan Deacon suggested that we ask for the Executive's initial comments and stress the urgency of the situation.

The Convener: I have no difficulty with that. If we make the Executive aware of those questions, I would expect to get a response.

Are members happy to proceed in the way that has been outlined?

Members indicated agreement.

The Convener: For the record, I should state that, although Dennis Canavan could not make it to the meeting this morning, he asked us to forward the petition to the Finance Committee.

Dungavel (Detention of Children) (PE671)

The Convener: The next petition, PE671, concerns the detention of children in Dungavel detention centre. The petition calls on the Scottish Parliament to take a view that opposes the detention of children at Dungavel and to ensure that the Scottish Executive meets its statutory commitments to provide mainstream education for all children in Scotland, including children who are looked after or have special needs. The petition is supported by the Scottish Trades Union Congress, the Scottish Refugee Council, Oxfam Scotland, Amnesty International, Save the Children, Positive Action in Housing, Action of Churches Together in Scotland and the Scottish Green Party. It has 137 signatures of support. Rozanne Foyer, assistant secretary of the STUC, and Veronica Rankin are here to make a brief presentation to the committee.

Rozanne Foyer (Scottish Trades Union Congress): I will make a few general points about why we have decided to petition the Scottish Parliament on the issue and Veronica Rankin, who is the vice-chair of the STUC women's committee and is also from the Educational Institute of Scotland, will cover some of the educational issues that are raised.

After the STUC's demonstration at Dungavel detention centre, which was attended by well over 1,000 people, we felt that there was a need to take a two-track approach to the matter. We have been in touch with the Home Office and the Home Secretary and are happy to raise with the United Kingdom Government our views on the closure of Dungavel and changes to asylum policy. However, we believe that the Scottish Parliament could go further to meet its responsibilities, which is why the petition still applies.

The convener has laid out the issues covered in the petition and we have submitted some initial signatures. We are still receiving signatures, which we will pass on to the Parliament. We estimate that we have around 1,000 signatures in support of the petition, as well as formal support from organisations. We expect to receive more signatures because the petition has been circulated widely in trade union branches throughout Scotland.

The Scottish Executive says that the Nationality, Immigration and Asylum Act 2002 overrides its responsibilities under the Standards in Scotland's Schools etc Act 2000 in relation to children who are detained in Dungavel, but the key issue is that the 2002 act, which went through the UK Parliament, refers only to accommodation centres, not to removal centres. The Scottish Parliament should ensure that the Scottish Executive meets its responsibilities under the 2000 act by ensuring that all children in Scotland are educated in mainstream education.

The Scottish Executive has clear responsibilities in relation to the welfare and health of children in Scotland. Detention is not good for children's mental health. Her Majesty's chief inspector of prisons for England and Wales has stated that Dungavel is the only removal centre in the UK in which children are routinely detained for long periods. That is unacceptable, given that such long detention does not take place routinely in other UK detention centres. The Parliament and the Executive have a right and a duty to ensure that certain standards for children's welfare and education are adhered to. We want the Scottish Parliament to specify to the UK Parliament and the Home Office that those standards must be adhered to; it should not just ask for that.

Veronica Rankin (Scottish Trades Union Congress): I share Rozanne Foyer's pleasure in being invited to the meeting.

One difficulty is the length of time for which children are detained in Dungavel detention centre. We are delighted that Parliament debated the issue, but once or twice during that debate it was suggested that children are in Dungavel for only two days. That is manifestly not the case—most of the children are there for much longer than

that. If children were in the centre for only two days, that would raise the question why they had to be detained in the first place.

We reiterate the concerns of HM Inspectorate of Education. We praise the work of people in Dungavel who are trying to provide a good service for children in impossible circumstances. We are also keen to emphasise the role of the local council, which is able and anxious to provide more services than those that exist at present.

The debate in Parliament emphasised the best interests of the children, which relates to the mainstreaming provision of the Standards in Scotland's Schools etc Act 2000. The matter is complex because a range of children are involved, some of whom have special and specific needs and some of whom are highly intelligent. Schools and local councils can deal with such a range of needs and have experience of doing so, regardless of the length of time that the children would be in school. Local councils can deal with children who are traumatised for a variety of reasons, children who are looked after in residential care and those who have experienced the difficulties that were outlined during the debate in Parliament.

It is a tragedy that children are suffering and that their human rights are being undermined because of flaws in the system, which is completely out of kilter with the aims of the Standards in Scotland's Schools etc Act 2000 and the Scotland Act 1998.

Rozanne Foyer has mentioned the emotional health and well-being of the children who are asylum seekers. I must also refer to the emotional health and well-being of the children who have befriended asylum seekers, who understand where the asylum-seeker children are going not only when they are removed to a detention centre, but when they just disappear.

A whole range of issues has been dealt with, as the committee can see from the fantastic work that has been done in Glasgow. I reiterate that the purpose of the petition is to examine much more closely what we are doing to the children of asylum seekers.

The Convener: Thanks very much. Before I open up the discussion to members, I have a comment to make. I am delighted that the petitioners have clarified the petition's purpose. It has to be noted that there has been a debate in the Parliament and that a decision was taken in respect of that. Part of the petition calls on the Parliament to take a particular view. I do not believe that it is the Public Petitions Committee's role to second-guess decisions that the Parliament has already made or to suggest that the Parliament should make a particular decision. We must draw that distinction, because it would set a

dangerous precedent if the committee were to take petitions on that basis. It is clear that the second part of the petition is pertinent to the committee's role. I ask members to bear that in mind in our discussions.

Linda Fabiani: I would like Rozanne Foyer and Veronica Rankin to provide some initial clarification of what they mean when they use the phrase "provide mainstream education". It is important that they put that on the record. My view is that it would not be at all acceptable to allow children out from what is a detention centre—although it is called a removal centre—to go to school and be escorted back every day, as that would cause many psychological difficulties. Are they saying that families with children should not be locked up, but should live in communities where their children can get mainstream education and that there should be another way of monitoring where those families live?

Rozanne Foyer: You have laid out an important distinction that we have concerns about. We feel that, should the Home Office be willing to let children access education at local schools, that could mean that they were almost on day release from prison-like conditions. Although that is obviously better than what is happening now—

Linda Fabiani: That point is debatable—that is why I am asking for clarification. Some experts have said that the psychological effect of going out and then back in could be just as damaging.

Rozanne Foyer: That would be our concern, too. We do not feel that that would be good for the welfare of the children. I will ask Veronica Rankin to deal with the educational aspect. The fact that what you describe would not provide a satisfying educational experience is why we feel that it is important to keep pushing on the issue and to ask for further investigation by the Parliament.

Veronica Rankin: That is a fair comment, which I agree with. It would be ridiculous to take children away from their parents and then tell them that they were going back to prison. We must be more imaginative on the children's welfare.

Ms White: I take on board the convener's comments about the debate that we have had on asylum seekers. Everyone knows what my views are, so I will not labour that. I will listen to the convener and will not enter a discussion on the whole Dungavel and asylum seekers issue and who is responsible for it and who is not. The important thing is that we are talking about the kids' education as well. The committee needs to clarify who is responsible for the education of the children and we should write to the Executive on that.

Does responsibility lie under the Standards in Scotland's Schools etc Act 2000 or not? I am sure

that, like me, other members will have seen various reports from the Home Office that state that the Scottish Parliament is responsible for social and educational issues. I have also seen reports that say that the Home Office is responsible for asylum issues. That is the first point that we need to clarify if we write to the Executive.

I agree with Linda Fabiani that it would not be in the kids' best interests to go from school back to Dungavel. I take the point about the kids' friends. Kids' imaginations can run riot. The asylum-seeker kids might be playing with their friends one day, but be missing the next because they are back in the prison. Their friends would wonder what was going to happen to them. It should be explained to the kids' friends why the kids are in a detention centre—or prison, as I prefer to call it—in the first place.

I said that I would abide by the convener's wishes, so I will not go into that particular point. All I want to say is that I want it clarified whether the Scottish Parliament is responsible for the welfare and education of children while they live within Scottish jurisdiction.

Rozanne Foyer: I certainly think that it would be helpful to have that clarified. The thrust of our petition, and the advice that we got when constructing the petition, is that the Scottish Executive has clear responsibilities for the education of children in Dungavel. As I said in my initial presentation, the Nationality, Immigration and Asylum Act 2002 refers to accommodation centres but says nothing about removal centres. However, HM chief inspector of prisons said that the Dungavel removal centre, unlike other such centres, is being used to accommodate children. The Scottish Executive and the Scottish Parliament should take a view on and clarify the issues that have arisen.

11:30

Carolyn Leckie: Thank you for coming to present the petition. The issue of the detention of children at Dungavel is inextricably linked with the issue of their education. I would like you to comment on the ethos of mainstreaming. My understanding is that part of that ethos is to place children in schools within their communities. A community implies houses rather than a detention centre. I would struggle to accept that Dungavel could be described as part of any community, given, for example, that it is behind 20ft of barbed wire.

In case there is any dubiety about the responsibility for the children's education, I should say that I have communicated with the education authorities in South Lanarkshire Council, the care

commission and the reporter to the children's panel. The advice from all those sources suggests that the Education (Scotland) Act 1980 and the Standards in Scotland's Schools etc Act 2000 cover children in Dungavel. That responsibility has not been rescinded by any statute, including the Nationality, Immigration and Asylum Act 2002, and there have been no Sewel motions or amendments to affect it.

There is no doubt that the 1980 and 2000 acts cover the children in Dungavel. It would be nice to get the Executive to accept that publicly. I believe that the responsibility is clear and does not need clarified. We are waiting for the Lord Advocate to reply to a letter on the matter. It is interesting to note that the care commission has confirmed in writing that it has a responsibility in relation to Dungavel and has classed Dungavel as a day care facility. The care commission must have Home Office permission for a visit to Dungavel, but it also has the power to make surprise inspection visits, which we have asked it to do.

If the care commission, which is a Scottish organisation accountable to the Scottish Parliament, has the authority to make surprise inspections of Dungavel because it has classed Dungavel as a day care facility, there should be no dubiety about who is responsible for the welfare and education of the children in Dungavel. I wonder whether you can comment on that.

Veronica Rankin: I will deal with the ethos of mainstreaming, which is at the heart of equality, access to and provision of education and how we treat children in this country. There are two issues. The first is the HMIE report. We should not lose sight of the fact that, although that report was careful to say that staff in Dungavel were trying their best, it was highly critical of the provision within Dungavel. That point must be considered if we accept—which I do not—that Dungavel should continue to exist.

Secondly, the fundamental principle of mainstreaming is that all children, regardless of their background, educational ability and physical and mental capabilities, have the right to be treated and educated according to their needs. The fact that children are from asylum-seeking or refugee families should not alter that fundamentally good principle that we in Scotland have incorporated into law.

Rozanne Foyer: We share a lot of Carolyn Leckie's concerns. The Parliament has taken a view in relation to the education of children. Everything that we have looked at points to the fact that the Parliament and the Executive have clear responsibility for the education and welfare of children. However, we are concerned that the signals from the Home Office are about increasing the accommodation at Dungavel, and that there

will be no review of the way in which things are handled there.

In order for the Parliament and Executive to meet their devolved responsibilities, we should be telling the Home Office what we expect the standards to be in Dungavel. We should not be asking the Home Office if it might just consider having a wee look at the issue when it finally gets round to it. It should not be that way. A clear area of responsibility has been devolved to the Parliament and the Executive. We do not have to change the Scotland Act 1998 to do those things; we already have clear powers. It is not in any way inappropriate for the Parliament and Executive to act on the issue.

Jackie Baillie: I welcome Rozanne Foyer and Veronica Rankin to the committee. I am pleased to note that the STUC is pursuing the issue with the Home Office and, I assume, with Scottish MPs as well. There are much wider issues in your petition than are of concern to the Parliament, particularly because the Parliament took a view on 11 September 2003, which predates the submission of your petition.

I listened carefully to what you both said. I consider that all the issues that you have raised today have been discussed in the Parliament. I have tried to find something new in what you have said and I would welcome your clarification of the two or three things that are absolutely new and which the Parliament did not consider. That is important to our consideration of the petition.

It is fair to say that everyone in the Parliament showed their concern about children being held in detention in Dungavel. I understand that there is a move to implement fully the recommendations of the HMIE report, to which you referred, and also the recommendations in the HM inspectorate of prisons for Scotland report. There has also been a move to initiate discussions with South Lanarkshire Council, the Home Office and the Scottish Executive to progress the issues as a matter of urgency. What more do you think requires to be done beyond those three actions?

Rozanne Foyer: Given the widespread public concern, we are pleased that the Parliament acted, debated the issues, and went some way towards addressing them. However, we believe that the focus is wrong. It is as if the Parliament is going to the Home Office to ask if it might be prepared to consider doing something. The Parliament and the Executive should determine what meets the provisions of the Standards in Scotland's Schools etc Act 2002; they should also decide an appropriate standard of mainstream education for the welfare of children. We should then lay out those standards for the Home Office and ask for them to be implemented.

At the moment, the recommendations are being put to the Home Office, and it is up to the Home Office to determine the solution. The problem with that is that it leaves the door open for children to be put on to day-release schemes and bussed to local schools. We do not think that that meets the standards for access to mainstream education.

A way forward might be for this committee to ask the Education Committee to consider the appropriate standards of mainstream education for children at Dungavel, and then to put that to the Home Office.

Jackie Baillie: That is a critical point. If have picked up your concern correctly, I understand that it is more about the process than the outcome.

Rozanne Foyer: The process could lead to an inappropriate outcome.

Jackie Baillie: So, is your concern about the process?

Rozanne Foyer: It is about both.

Mike Watson: There seems to be a need to clarify the legal position in relation to responsibility. I hope that the letter to the Lord Advocate, to which Carolyn Leckie referred, will do that. At the moment, although many people say that the position is clear, the fact that there are different interpretations shows that it is not. We need to have a legal definition. That said, I do not disagree with what has been said about the need for proper education of children. That should be our main concern.

Rozanne Foyer, in response to Jackie Baillie's comments a couple of minutes ago, said that she thought that the Scottish Parliament's decision about what to ask the Home Office to do was rather weak. However, I thought that the motion was fairly robust. It calls on the Government

"to take immediate action to implement the recommendations"

in the reports by Her Majesty's inspectorate of prisons and HM Inspectorate of Education, and

"to end a system of detention of children at Dungavel".

I accept that the motion calls on the Executive to ask the UK Government to act.

My point relates to something that I heard you say on the radio this morning. You were asked what the alternatives might be to bussing children in and out of the centre and where the children and their families might be based, if education was to be made available to the children. Your answer, which was that some sort of community order could be placed on the family, seemed to miss the point. It is the parents, not the children, who have committed an offence or about whom a decision to deport has been made. If we reject a solution in

which education is provided for the children, either on an in-out basis—I would find that acceptable—or within the centre, which is not ideal, we raise wider issues about the basis on which we treat families who, for whatever reason, are to be removed from the country or who have previously absconded. How can we have a situation that concentrates on the children, when to remove families from the detention centre and put them into the community—simply because they have children—would raise more issues than just the education of the children? I have difficulties with that. I am keen to concentrate on education, but I do not see how we can separate the issues to such an extent that you would not accept a half-way-house solution, which involved the bussing of children in and out of the centre.

Rozanne Foyer: When I spoke on the radio this morning, I was asked what an alternative policy to the detention of asylum seekers and their families might be. We have made it clear that we will address that matter with the Home Office. Nonetheless, our alternative would be to have no Dungavel detention centre that locks up families. We would certainly look at community alternatives and we believe that options exist and are widely used across Europe that could be developed in Scotland and indeed across the UK. However, let us set that matter aside, as I agree that it is not what we are here to talk about today. We are here to talk about the education of children and we have made our case clear. We do not think that to detain children and educate them, either in Dungavel or through a day-release scheme, is a suitable way of ensuring their welfare or a good education for them while they are in Scotland.

I do not think that what the Parliament decided was weak. The decision represented progress, but we are concerned that there could be different interpretations of the wording of the motion. When Mike Watson quoted it, he stopped conveniently just before a “which”. I cannot remember the exact words, but the motion called on the Government to end a system of detention which does not affect—

Mike Watson: The exact words are:

“which denies them access to social contact and to educational and other services in the local community”.

Rozanne Foyer: Thank you. That wording creates a window of opportunity to allow a day-release type of system. We are not comfortable with such a system and have clear concerns about that. I hope that I have clarified the matter for you.

Veronica Rankin: Education is about much more than just children attending school. It is about the whole child and about the parents. I question whether any provision that was made at Dungavel could meet the families’ needs and I doubt whether the best interests of the child can

be met in the present system. Those interests can be met only within the panoply of provisions in mainstream education that is available to all children and parents.

The Convener: Linda Fabiani and Sandra White will ask their questions next, then we will—I hope—get some suggestions about what to do with the petition.

11:45

Linda Fabiani: I will combine my question with a recommendation. The issue reminds me of the expression, “never the twain shall meet”, with regard to where the law stands on reserved matters and the Executive’s responsibilities. I would like the committee to commission some legal advice.

When we talk about these issues, one side says that the Scottish Executive is responsible for the children’s education and the other side says that the Home Office has that responsibility. In reality, even if the Home Office had responsibility, it has passed that responsibility to Premier Detention Services, which is a private company. Is that company responsible under the terms of its contract with the Home Office? We should take advice on that point. The Home Office has Crown immunity in dealing with asylum and immigration issues. I am not convinced that it is allowed to pass that Crown immunity to a private contractor such as Premier Detention Services. I would like clarification of the matter because I am not convinced that passing total responsibility for the welfare of some children in our country to a private company falls within the law.

Ms White: I agree that the Scottish Parliament is responsible, but various documents pass the buck either to the Home Office or to the Scottish Parliament. We definitely need legal advice so that we can see in black and white whether the Executive is responsible for the education of children in Dungavel. We desperately need that advice in order to move on.

I have a couple of questions that might relate to what Mike Watson said. Scotland is the only place that keeps families in places such as Dungavel for more than two or three days. Sometimes, they are there for a couple of months. Do either of you know whether any families who have been kept in Dungavel have a history of absconding?

You mentioned that you are happy that we had a debate in the Parliament—so am I, although the outcome was not what I would have liked. However, are you concerned that, once we had had that debate and received a reassurance from the Executive that it would speak to the Home Office and to South Lanarkshire Council, which has been supportive of the children’s education,

the Home Office came back a couple of days later to say that Dungavel will be expanded? It reacted in the opposite way. Are you concerned that although we moved forward—albeit slightly—after the debate, the Home Office's reaction was to go against the Scottish Parliament's recommendations?

Veronica Rankin: I will answer the first question. I have no idea how any mother—or any parent or family member—could abscond with three children. That is difficult to contemplate. We were desperately disappointed by the speed of the Home Office's reaction after the Parliament's debate.

Rozanne Foyer: We—the STUC—do not deal directly with the families in Dungavel. We think that there is more of an onus on other organisations to do so. We have worked closely with the Scottish Refugee Council, which has had a lot of contact with the families, and you might like to ask it to give you more information.

Ms White: I have spoken to the Scottish Refugee Council and, as far as it is aware, there are no families in Dungavel who have a history of absconding.

Rozanne Foyer: As far as we know, there are none, but I am aware that we do not speak from a position of absolute authority because we do not deal directly with the families. We are more interested in the wider human rights issues that have been thrown up by Dungavel.

We were deeply concerned by the Home Office's reaction to the debate that took place in the Parliament. That is why we feel that the Executive and the Parliament need to adopt a stronger line. It would be useful to know what has taken place since the debate, as there does not seem to have been much news on developments.

The Convener: Jackie Baillie can ask a question, then we will try to conclude the discussion.

Jackie Baillie: I am not going to ask questions; I am going to offer comments and, I hope, arrive at a conclusion.

I take it from what has been said that clarification of who has responsibility would be welcomed, as that would resolve the tit for tat once and for all. From your introduction and responses I got a real sense that, although you felt that the HMIE and HMIP reports were robust, and although you acknowledged that the motion that was passed by the Parliament went some way, issues of interpretation and the process that followed have caused concerns about what was going on. I acknowledge what Rozanne Foyer just said about our being unaware of what has taken place since the debate. My recommendation, therefore, is that,

instead of rushing to seek legal advice—one can get lawyers to say whatever one wants them to say, by and large—we should write to the minister, seeking clarification on responsibility for the delivery of education in Dungavel. We should also seek information on the progress that has been made in implementing the motion that was passed by the Parliament.

Linda Fabiani: We have been trying to get clarification from the ministers for more than two years. I do not think that your suggestion will help much.

Carolyn Leckie: The motion was not as strongly worded as I would have liked it to be. Dungavel should be closed, as it is a completely inappropriate facility for anybody. However, we should all bear in mind the fact that there are still families there with children of school age and pre-school age. We should look at not only the mainstream education curriculum for children aged five or over, but the pre-school education programme as well.

It is important that we knock on the head the myth that the reason for children being detained in Dungavel is the fact that their parents are somehow a threat to society or are likely to abscond. A couple of my colleagues have looked into the matter and found no substantiation at all for that in the case histories of the families who are currently being detained in Dungavel or of those who have been detained there previously. That is just a myth that the right-wing tabloid media are peddling.

I do not want to go into all the issues. However, the matter raises questions about whether the Parliament is fulfilling its duty to provide education to the children who are being held at Dungavel and what its responsibilities are in respect of providing interpretation. The appropriate place for those matters to be considered—and for legal advice to be sought, if necessary—is the Education Committee. The petition should, therefore, be referred to that committee. I am sure that Linda Fabiani is not the only member who has been trying to apply pressure to ministers and the Executive to get them to acknowledge their responsibilities for the children. By all means, let us do that too, but not instead of referring the petition to the Education Committee.

The Convener: I will take that view on board.

Helen Eadie: There is a stage before we get to that, and I support Jackie Baillie's proposal on that basis. I accept that, when they wrote to the ministers, Linda Fabiani and others may not have got answers; however, there is a difference between members writing to ministers and a parliamentary committee writing to ministers. The Parliament made a decision and wanted it to be

implemented. The logical thing for us to do is to ask what progress has been made in getting that decision implemented. I support the suggestion that we write to the minister and request that clarification.

The Convener: There is no disagreement about the fact that we need to do something. I do not want the committee to split on something about which members do not disagree. It is recommended that we seek advice from ministers or legal advice on whether responsibility for the matter is reserved or devolved. The committee can seek that information before it decides what it wants to do with the petition. The Education Committee has indicated that it has an interest in the matter and is examining it. If we clarify the legal issues surrounding the petition, we can decide what action is appropriate. Do members support that recommendation?

Linda Fabiani: You said that the Education Committee is already examining this matter. Can you clarify that statement?

The Convener: The committee has indicated that it has an interest in the matter, although it is not examining the petition formally. If we refer the petition to a committee, we must know that the petition falls within that committee's remit. It may be best for us to seek clarification of that before we decide what to do with the petition. How do members view that suggestion?

Linda Fabiani: I suggest that we both seek clarification of the legal issues that the petition raises and refer it to the Education Committee.

Carolyn Leckie: I am concerned that the children who are detained in Dungavel are not in receipt of a mainstream education and are not in their communities. There have been enough delays. We can write to ministers to seek clarification that there is nothing wrong in our referring the petition to the Education Committee and to let them know what other steps we are taking.

The Convener: I am not sure that we can both refer the petition to the Education Committee and seek clarification of whether the matter is reserved or devolved, as we may find that we cannot refer the petition to the committee.

Ms White: If we refer the petition to the Education Committee, it may get lost among all the other material with which the committee has to deal. Do we have an indication of how long it would take us to get legal advice on the petition?

The Convener: We could seek a response in time for our next meeting, on 29 October. We could request that the information be provided to us so that we can make a decision at that meeting.

Ms White: We could then refer the petition to the Education Committee, as we would have

received some kind of answer.

Linda Fabiani: From whom will we request legal advice?

The Convener: From the Parliament's legal advisers.

Linda Fabiani: Surely they have already provided such advice.

The Convener: I am not sure that they have. We must find out whether any committee has requested that information from the Parliament's legal advisers. It is within our remit to do that. It would be useful for us to clarify where parliamentary responsibility for the issue lies. Until the situation is clarified, there is no point in our referring the petition to anyone.

Helen Eadie: That is critical. As I understand it, once we refer a petition to a committee, we lose control of it—that is how the Public Petitions Committee has always worked and it has always been a problem. Seeking legal advice would not preclude us from writing to ministers at the same time. If we take the time to secure all the information, we will make a much better, more well-informed decision at the end of the day. We have between now and 29 October to do that. If we refer the petition to the Education Committee, we will lose control of it. This is an important issue on which we must take a good decision once we have obtained the necessary information.

Linda Fabiani: We began this debate by saying that we had to focus on the issue of education. Perhaps we should proceed the other way round and refer the petition immediately to the Education Committee, which should seek legal advice on whether it falls within the committee's remit.

The Convener: Helen Eadie, who has more experience on the Public Petitions Committee than the rest of us, made the point that if we referred the petition to the Education Committee we could not take action on it. We would be taking ourselves out of the equation.

Linda Fabiani: I find it difficult to get my head round the thought that legal advice has not already been sought—that stances have been taken here and there, but neither the Executive nor the Parliament has sought proper legal advice on this matter.

The Convener: That theme has come through all this morning's discussions. Even the petitioners have said that they do not know whether this issue is reserved or devolved. Carolyn Leckie said that she has asked questions and is still seeking clarification of the matter.

Carolyn Leckie: I will summarise the facts as we know them. The care commission, which is a devolved institution, has responsibility for the

issue. South Lanarkshire Council liaises with Premier Detention Services on the provision of education in Dungavel. Local government and education are devolved matters, so the Parliament obviously has its fingers in the pie.

In relation to the Education and Training (Scotland) Act 2000 and the Standards in Scotland's Schools etc Act 2000, it is a fact that there have been no Sewel motions or anything like that—

The Convener: I am not disputing that, but this is a committee of the Scottish Parliament. As far as I am aware, given the discussion that we have had this morning, there has been no legal clarification of the Parliament's role and responsibility in this matter. Before we take any action to refer the petition to any committee of the Parliament, we need to know what the Parliament's legal standing is in respect of the issue.

12:00

Jackie Baillie: I absolutely agree. We should get a view from the minister, including any legal advice that the Executive has on the position. If there is a view from parliamentary legal advisers, that would be useful too. My concern is that the views might conflict, but we can cross that bridge when we come to it.

I cannot remember exactly when, but prior to 2002, the Parliament had a debate—it may have been on a Sewel motion—during which the then First Minister, Donald Dewar, made a point about not ceding too much power to Westminster, and I believe that that point was quoted, if not by Linda Fabiani, certainly by Fiona Hyslop. I am inclined to check the legal position before we go haring off, for the simple reason that, although I understand people's concerns about getting the petition to the Education Committee quickly, I would rather that we got the facts before going forward.

Linda Fabiani: I will go along with that if we will say here and now that the matter will be on the agenda for the next Public Petitions Committee.

The Convener: In taking the matter to our legal advisers, we shall ask for a response so that we can discuss it at our next meeting. Is that agreed?

Members indicated agreement.

Mike Watson: It is 12 o'clock and we have dealt with only three petitions of the 15 or so that we have before us. What do you intend to do, given that we usually aim to finish by 12.30?

The Convener: I intend to go through the remaining petitions as quickly as possible. We do not have any other speakers and I hope that we—

Mike Watson: We have a speaker for the next petition. That is my concern.

The Convener: Fergus Ewing can comment on the petition—I understand that he will make a contribution as an MSP—but we do not have any formal presentations from petitioners. We must aim to deal with as many petitions as possible, and I urge members to bear that in mind when we are going through them. We must give them due consideration, but we must also bear in mind the fact that we have now spent two hours on three petitions.

Sub-post Offices (Review and Closure) (PE651)

The Convener: The next petition, PE651, in the name of Fergus Ewing MSP, concerns a review of the closure of sub-post offices. Fergus Ewing calls on the Scottish Parliament to take the necessary steps to obtain from the Post Office information relating to the review and closure of sub-post offices.

Fergus Ewing: I thank the committee for the opportunity to speak in support of the petition, which was occasioned by the proposed closure of Culduthel post office, which is in my constituency. I am sad to say that the post office itself was closed on 6 September, although I hasten to add that the shop that included the post office is still open for trading, and I am sure that Mr and Mrs Mackenzie would be anxious for me to point that out.

The petition raises general principles that, notwithstanding the closure of that particular sub-post office in Inverness city, are worthy of consideration by Parliament, not least because other members in towns and cities throughout Scotland will, I am sure, face the same situation. The Post Office has embarked on a process that it calls, rather euphemistically, network reinvention, which involves closing masses of post offices in towns and cities.

The wording of the petition was chosen with the assistance of the committee's excellent clerk, who identified the general principles. Back in the first session of Parliament, I met Sandy Stephen, who, along with Julie Morrison, is in charge of the process, and I asked whether he could explain exactly what criteria the Post Office applies in deciding whether a sub-post office should remain open or be closed. We are talking here only about urban or city sub-post offices; there are separate rules regarding rural sub-post offices.

While Mr Stephen and his colleague were extremely pleasant and courteous, I was left unclear as to exactly what criteria applied. One criticism that could be made of the existing process is that it is driven by sub-postmasters and sub-postmistresses applying for a closure. It is not driven by the needs of a city or town to have a

reasonable presence of sub-post offices throughout all areas of the town. That means, at least in theory, that if all the sub-post offices in the south side of Glasgow, for example, were the subject of an application for closure by the sub-postmaster, the whole of the south of Glasgow could be left without any post offices. That seems to me to be wrong.

The point of the petition is to elicit the criteria that are applied and to ask how many proposed closures have been approved and how many have been disapproved. I understand that, of around 40 Scottish applications, none has been reprieved thus far.

In addition, in the documentation the Post Office stated that it had

“undertaken a complete review of this and other branches in the area.”

I asked that that review be made public but, while some information was imparted to me about it, the Post Office was reluctant, if not unwilling, to make public its review. Surely that should be a public document?

I thank the committee for its indulgence. In conclusion, perhaps I could suggest how the petition might be pursued. I have supplied the clerk with the signatures on the petition—121 of them—plus letters plus the details of Mr Sandy Stephen. It might be appropriate if the committee were to agree to write to Mr Stephen, sending a copy of the *Official Report*, and asking whether the Post Office will clarify the criteria and answer the other questions that have been put by me in the petition. I am sure that we are all aware of the vital role that sub-post offices play, in particular for the elderly and young parents with children who need local access to the services that sub-post offices have traditionally supplied.

The Convener: I invite comments from members.

Ms White: I have been concerned about the amount of closures in the Glasgow area. I know that committee members will speak for their areas also. The only indication that we have of the closure of a sub-post office is when the sub-postmaster says, “This post office will close. What are your ideas?” and when he gives us information on the percentage of people who use it. We are not given an indication months before of which post offices or sub-post offices are to be closed down. In the area that I represent, closures have taken place in areas where there are a lot of elderly people. Perhaps the closure of post offices is something to do with the fact that the Post Office wants elderly people to receive their pensions through banks.

Some of Fergus Ewing’s comments and ideas have merit, such as requesting updates on what is

happening, the number of closures so far, and the projected number of closures. I would like to see the closure plans, rather than being told only six weeks or two weeks in advance. There would be merit in our writing to the Post Office to ask about its plans. Whether closures take place in Inverness, Glasgow or wherever, we should be concerned, in particular because the Post Office is encouraging pensioners to access their pensions through banks. Everyone who was at the meeting last week with the Communication Workers Union had great concerns about obstacles being put in people’s way in obtaining a Post Office card. Perhaps there is something more to this issue than the eye can see. I would like to take on board some of Fergus Ewing’s recommendations, such as writing to the Post Office.

Helen Eadie: I also support the petition. Coincidentally, post office closures are happening at the same time as bank closures in rural areas. We are concerned not just about post office closures in rural areas, but about closures across Scotland. There have been two closures in my area in the past year, which causes me concern. I supported the CWU’s “banking on you” campaign when it lobbied here last week. Although I was not present, I met some of the CWU representatives prior to the lobby.

I would like us to write to the Minister for Enterprise and Lifelong Learning and I would like the banking sector to speak to the post office sector. A meeting of minds about providing banking and post office facilities in some rural areas might help to address general financial issues. Some people, when they get to a certain age, cannot drive and therefore cannot access facilities elsewhere. I am generally supportive of the petition.

Carolyn Leckie: I support the petition, but I want to ask Fergus Ewing whether he has considered a connected issue. My mother is disabled and my stepdad died quite recently so she has been widowed for the second time. She relies a lot on social services when it comes to picking up her pension and going to the post office; I am sure that she is not the only one in that boat. It strikes me that this is not only about postal services, which are deemed to be a reserved matter. There is a knock-on effect on people’s lives in Scotland and a potential knock-on effect for the organisation and resourcing of social services. Elderly and disabled people, many of whom will have care packages, will be disproportionately affected. We have to consider that.

The Convener: I have to point out that the Post Office is a reserved issue. However, everyone seems to agree that we should seek more information from the Post Office so that we can

assess the impact of the closure of sub-post offices.

Fergus Ewing: Carolyn Leckie made an excellent point and I endorse her remarks. I am very pleased with the committee's response and happy with the convener's suggestion. I will now depart until the seagulls arrive.

The Convener: Do members agree with my suggestion?

Members indicated agreement.

Hospital Closures (Public Consultation) (PE643)

The Convener: The next petition, PE643, is on public consultation on proposed hospital closures. The petition was submitted by Ms Dorothy-Grace Elder, who has asked whether we can defer our consideration of it because she is unable to attend this morning. Do members agree that we should defer our consideration of the petition until 10 December?

Members indicated agreement.

Water Fluoridation (PE649)

The Convener: The next petition is PE649, on the proposed fluoridation of the public water supply, which is in the name of Lois MacDonell, on behalf of the Highland Movement Against Water Fluoridation. The petition calls on the Scottish Parliament to take the necessary steps to prohibit the compulsory addition of any artificial fluoridation to the public water supply in Scotland.

The option of adding fluoride to the largest water supplies in Scotland was considered in a recent Scottish Executive consultation on children's oral health. That prompted petition PE649, which has attracted 6,275 signatures. The consultation concluded in February 2003 and an independent researcher is collating the responses. The petitioners oppose water fluoridation on the basis that it denies human rights; that there is no evidence to support claims that it benefits children's oral health; that the chemical involved has been linked to health problems including allergic reactions, osteoporosis, various cancers, thyroid problems, immune deficiencies and dental fluorosis; that it is not cost-effective; and that there is a risk of the accidental overdosing of water treatment plants.

Members have received a briefing paper from the petitioners, which provides further background information on their concerns. Do any members wish to comment?

Helen Eadie: Could we write to the Executive and then consider its response? We should gather as much information as we can on this issue.

Ms White: I thought that someone was coming to give evidence on this petition.

The Convener: No.

Ms White: I was looking forward to hearing evidence, but I echo what Helen Eadie said. I am interested in what is happening on this subject, and I look forward to debating it. Any further information that we can get on the issue before that debate gets under way would be most helpful.

The Convener: Is everyone happy with that?

John Farquhar Munro: There has been a strong campaign against fluoridation, and it has been gathering momentum. It would be to our advantage to get as much information as we can about it.

12:15

The Convener: Is everyone happy that we will seek more information and return to the matter at a later meeting?

Members indicated agreement.

Terrestrial Trunked Radio Communication Masts (PE650)

The Convener: The next petition is PE650, on the proposed installation of terrestrial trunked radio masts—or TETRA masts—which is in the name of Alison Mackay, on behalf of NO₂ TETRA. The petition calls on the Scottish Parliament to take the necessary steps to delay the installation of terrestrial trunked radio communications masts in Scotland until potential health risks have been properly assessed and the relevant planning guidance has been amended to incorporate mandatory health and safety standards.

The petitioners are concerned that the TETRA system is being rolled out quickly to facilitate the implementation of a new police communications system throughout the United Kingdom, despite the fact that research on the health and safety implications is still inconclusive. It is planned to install 700 TETRA masts in Scotland, and 14 planning applications have already been lodged in the area of Fife where the petitioners are from. The planning guidance on such developments might not be strong enough to ensure that health aspects have been fully considered. The international emissions standards predate TETRA, and are therefore neither relevant nor adequate.

The petition is supported by 620 signatures, and we are told that a further 700 are on the way. We have been advised that the Home Office will publish the findings of further research into the health implications of TETRA masts in 2004. The Executive has commissioned external consultants to evaluate the effectiveness of current regulations

and associated policy regarding planning for telecommunications developments. That research is also to be completed in 2004, when it will be presented to the Communities Committee. I invite Mark Ruskell to add his comments.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): Thank you for this opportunity to take a few minutes to speak in support of the petition. I hope that members received the briefing paper that the petitioners produced. The petitioners are in the public gallery, and have not themselves been able to speak to the petition today, because of time constraints.

I do not know whether the TETRA technology is safe or not, and the petitioners and the other people who are concerned about the issue do not know either. We know, however, that the TETRA technology is not the same as conventional mobile phone technology. We know that the current international guidelines predate the development of TETRA technology, and that they relate only to the thermal effects of mobile telecommunication systems, not the pulsing effects, which are people's main concern about the TETRA system.

The industry acknowledges that the handsets that are used under the system pulse, and at a frequency that is similar to that of the human brainwave. There is a genuine debate about whether the proposed masts also pulse. It is extremely worrying that the Stewart report, which contained the findings of the independent expert group on mobile phones, says that we should be avoiding those technologies that emit a low-radiation pulsing of around 16Hz. TETRA emits a pulse signal of around 17Hz.

The Stewart committee recommended that a precautionary principle should be adopted. In other words, we should look before we leap into new forms of technology when we are not sure whether they are safe or not. That inherent contradiction is a strong argument for a parliamentary committee to consider not mobile phone technology as a whole, as I gather that a committee report was produced on that during the first session, but the specific issue of TETRA technology, which is substantially different.

I should also highlight the public concern over the issue and the concerns of Scottish local authorities. Since I took an interest in this issue, I have been inundated with concerns from constituents all over Scotland who are submitting petitions to the Parliament. However, it is also worrying that to my knowledge four local authorities in Scotland have introduced moratoriums on decisions about TETRA mast planning applications. Local authorities are between a rock and a hard place on this issue. On the one hand, if they refuse to make decisions on TETRA mast planning—as many of them are now

proposing to do for a period of time—they could face sanctions from the Scottish Executive; on the other, if they accept the planning applications and approve the masts, they could face legal action from those who could be affected by them.

A parliamentary committee should examine the issue because we have the time to do so. We should bear it in mind that the technology is being rolled out across the UK; however, the roll-out has been delayed because in Devon a moratorium has been agreed by the local authorities and the police. That gives some time for a committee of the Scottish Parliament to consider the evidence.

In the Parliament, a number of questions have been asked and a limited member's business debate has been held on the topic. However, it is clear from the debate and the answers to those questions that such forums are inadequate to deal with such a technical area. As some of the contradictions have not been thoroughly examined in those debates, I feel that the best way of proceeding with the issue would be for a committee to conduct a proper investigation into the evidence and the various technical areas.

Helen Eadie: As a previous member of a planning committee in Fife Council and as a member of the Transport and the Environment Committee when it considered evidence on this subject, I know that the crunch issue is the fact that a planning authority is not allowed to reject a planning application on the grounds of health. No matter whether we are talking about TETRA communications technology or mobile phone technology, we will always come back to that issue.

During the consultation process for the previous inquiry, the local authorities and the wider public indicated that they wanted planning authorities to have the power to reject a planning application on the grounds of health. However, the Scottish Executive and the minister at the time did not go down that route. It is really a question of examining the planning process.

A consultation on a complete review of the planning process is under way, and perhaps that is where the pressure needs to be put if we are to revisit that planning issue. As a result, we should write to the Scottish Executive and ask whether it has received any representations about allowing a planning authority to decline a planning application on the grounds of health. I would be very interested to hear the Executive's view on that question. I certainly supported the proposal when I was a member of the Transport and the Environment Committee and I think that I am right in saying that the Greater Glasgow Health Board representative did the same when she gave evidence to that committee.

Mike Watson: I back Helen Eadie's suggestion that we write to the Executive. However, we should also go a bit further and find out the Communities Committee's view on the matter. I notice from our papers that the Home Office and the Executive are carrying out research and I was not clear from Mark Ruskell's introduction whether the moratorium that is requested in the petition has been granted. He seemed to be saying that there has been a delay, but I doubt whether that will be sufficient. I—and I assume other members—received an e-mail yesterday from Alison Mackay which contained an updated version of the briefing paper. I was really concerned about the annexe at the back, which raises a number of questions—to put it mildly—about a paper from Airwave mmO2 Ltd. The campaigners claim that various statements in the paper are not true or are grossly misleading, and before we consider the matter further we should write to Airwave mmO2 and ask for its response to their claims against the masts.

Carolyn Leckie: I am interested in Mark Ruskell's view on the petition's progress through the Parliament. You talked about a committee and I would like to know which committees you think would be appropriate. I agree with Helen Eadie that a more general question about planning and health issues is relevant. Legislation should be passed on that subject.

Research into TETRA technology and pulsing has been inadequate. The briefing paper suggests referring the petition to the Communities Committee, but I wonder whether the planning issue means that it should go to the Local Government and Transport Committee and whether the TETRA technology question means that the Environment and Rural Development Committee needs to be involved. Do we refer the petition to one of those committees with guidance to seek advice?

The Convener: That question goes into the realm of putting the cart before the horse.

Carolyn Leckie: Sorry.

The Convener: To help everyone, I clarify that if we write to the Executive, we must wait for its response before we send the petition to a committee. Otherwise, we would be asking a committee to consider a petition without knowing the Executive's position on it, so we would not know whether we should have referred the petition to that committee in the first place. I am not saying that we should not send the petition to a committee, but we need to wait before we take another course of action. We can decide not to bother to send the petition to the Executive because we have made up our minds that the issue is important and that we will send it straight to a committee, or we can write to the Executive

and ask a committee to consider aspects of the Executive's response. We must agree on the sequence of events.

Carolyn Leckie: We should agree on the issues that we want to focus on.

The Convener: We can do that and ask the Executive for its comments. When we receive the Executive's response, we can decide on the committees to which to refer the petition.

We should consider seriously Mike Watson's points about the questions that are posed in the e-mail, because having more information will allow us to determine better which committees to ask to consider the petition. If we write to the Executive and obtain the information that he wanted, that will give us the best picture on which to base a further decision.

Mike Watson: That will fit in with the time scale of the Executive's and the Home Office's inquiries and research.

Mr Ruskell: I will respond to the questions that have been asked, if I can remember them all. Helen Eadie's point is extremely important. I understand that the Transport and the Environment Committee's report of its investigation into mobile telecommunication systems recommended that health should be regarded as part of the planning system, so one parliamentary committee has already recommended that. In several judicial reviews of decisions in areas of England, judges have ruled that health and perceived effects on health are legitimate planning concerns. Those judicial reviews concerned TETRA particularly, which is interesting to note.

Mike Watson talked about delay, which is caused by local authorities taking a strong position and wanting to impose moratoriums. That happens throughout the UK because the system is UK-wide. The delay is a result of local authorities' uncertainty as to what the truth is about the technology and about whether it is safe. It is important to take up the recommendations of the Government's expert committee—the Stewart committee—and to adopt the precautionary principle that a moratorium should be imposed until we know whether the technology is safe.

Carolyn Leckie asked which committee the petition should be referred to. I am not entirely sure. It could go to the Health Committee, but the Communities Committee is a strong contender for considering some aspects.

The Convener: We have already discussed the fact that we do not know which committee to refer the petition to because we do not know what the Executive's response will be.

Mr Ruskell: The committee needs more information.

The Convener: We are considering the recommendations about what to do with the petition. The recommendation is that we write to ask the Executive for its position on the subject so that we have as much as information as possible on which to base a decision about the relevant committees for addressing the concerns. Is everyone agreed on that?

Members *indicated agreement.*

Mike Watson: Can I clarify that we will not wait until we hear from the Executive before writing to Airwave mmO2?

The Convener: Yes.

Scottish Society (PE654)

12:30

The Convener: The next petition is from Mr Jeevan Lakhanpal, who calls on the Scottish Parliament to debate and consider the development of a more caring society in Scotland. The petitioner suggests that the Parliament should promote co-operation and integration between communities, initiate an advertising campaign to promote helping friends and relatives in need and create a parliamentary committee to enhance all aspects of society. He argues that that action could reverse the apparent trend of voter apathy, secure the rejection of antisocial behaviour, encourage and inspire people and facilitate a society of respect and care.

Do members have any comments? I have to say that if the Parliament in its totality is not about doing all of that, I do not know what it is here for. I do not know what we can do specifically in respect of the petition other than to say that we all aspire to meet the aims of the petition and to thank the petitioner for bringing those matters to our attention. The petition makes a specific request that we set up a committee to look into making Scotland a nicer place.

Mike Watson: I suggest that it is the role of the Communities Committee to promote such values in society.

The Convener: As I said, I think that Parliament has established all the committees to consider all the matters to which the petitioner refers.

Carolyn Leckie: It would be nice if we could change society through an advertising campaign on buses, but it requires a much more radical overhaul than that. I am sure that members will not be surprised to hear me say that. However, it would be wrong to dismiss the petition. It should be given a hearing and opinions should be sought on it. Perhaps we should write to the Executive, which has advertising campaigns on race integration and so on. Perhaps we could draw the

Executive's attention to the petition and encourage some engagement.

Helen Eadie: I suggest that we immediately refer the petition to the Communities Committee, as it should have sight of the petition. I am sure that we all sign up to the petition's aspirations and it would be wrong to dismiss it. We should ensure that the view that it expresses is heard. Other parliamentarians would also want to sign up to its aspirations. The issue is that everybody has different ideas about how we achieve that end. The Communities Committee is obviously a good place for the petition.

Ms White: We would all love to live in a world that was caring and in which co-operation was promoted. We are all parliamentarians because we want to achieve that. To send the petition to the Communities Committee is very narrow, because the petition encompasses every single committee and every aspect of the Parliament. We could all name off the top of our head aspirations such as good citizenship and we could stress, for example, the importance of modern studies in education.

Although the petition is well meaning and I back it 100 per cent, I do not know what committee we can send it to that encompasses everything that the petitioner wants to be taken forward. It is up to all of us to take a lesson from the petition. Perhaps every member should be given a copy of the gentleman's petition as we should be pushing towards his aspirations. Various committees should push for policies that enable Scotland to become a more caring and egalitarian society. I do not think that it would do any good to send the petition to one committee.

The Convener: The petition is well meaning and I do not think that anybody would disagree with it. The concern is what we could effectively do with it. I do not believe that there is anything that we could ask any committee to do that would have an impact. As I said at the outset, if in all its daily actions the Parliament is not about trying to achieve the aspirations of the petition, I question what it is about. The petitioner is asking us to do what the Parliament in its totality is intended to do. I do not know what specifically we can ask anyone to do.

Carolyn Leckie: The petitioner's one specific point is about initiating an advertising campaign on public transport. I would be comfortable with referring the petition in any way that others are comfortable with, but I would be concerned if any member of the public who submitted a petition to the committee was just dismissed. Perhaps we should invite a view from the Executive on the petitioner's specific proposal. We could encourage the Executive to engage with the person.

The Convener: Would it be better for us to write to the minister responsible to ask for the Executive's view? Is everyone happy with that?

Members *indicated agreement.*

Council Tax (PE656)

The Convener: Petition PE656, which is from Ms Sheila Gibb, calls on the Scottish Parliament to take the necessary steps to implement an appropriate dispute resolution process for council tax in Scotland, to investigate the Scottish public services ombudsman service and to initiate legislative change to ensure that no third party is able to intervene in the collection of council tax.

The petitioner highlights her own experiences to illustrate her concerns about the current system. She took a short-term lease on a property in Dunfermline while still paying local taxes in Australia. Fife Council issued a bill for council tax for the period of the lease to the owner of the property because, as a temporary visitor to the UK, the petitioner was not liable for payment. When the lease ended, the letting agent took an amount equivalent to that council tax from the petitioner's deposit payment for the tenancy.

In correspondence, the petitioner has been advised by Fife Council, the Scottish public services ombudsman and the Scottish Executive to pursue the matter with the letting agent in question. However, the petitioner maintains that her dispute is with Fife Council, as she claims that the council is refusing to return her money.

Members are reminded that it would not be appropriate for the Parliament to intervene in the petitioner's individual situation.

Carolyn Leckie: I would not intervene in the individual situation, as I would hope that the petitioner would get representation from her MSP. However, I will comment on the wider issues that the petition raises, as I have had constituency problems with the implementation and collection of council tax.

One aspect of the petition that I am interested in is the proposal for an independent arbiter to investigate whether there is a debt and who owes it. I have found that there is not much onus on local authorities to produce evidence that a debt is owed before they refer the case to sheriff officers. Can you clarify whether, in your understanding, the petitioner's proposal that no third parties should be involved includes sheriff officers? I would be very supportive of that.

However, the petition raises wider issues about how the system operates and the process for appealing decisions and obtaining redress.

The Convener: I agree entirely that the process is the important thing. If the individual petitioner

has a problem, she can take it up with the ombudsman, who looks at individual cases. As the ombudsman has already looked at the petitioner's situation, we cannot look at this specific instance. However, the petition highlights the process by which people are able to seek arbitration on a council tax issue.

Mike Watson: I agree that the remedy that has been set up by the ombudsman is appropriate for this individual.

My concern is whether we should consider the petition at all, given the fact that the woman concerned is an Australian or is certainly resident in Australia. On what basis are we considering the petition? If we can accept petitions from people who do not live in Scotland—albeit that their petition may be related to things that are happening within Scotland—that could add significantly to our work load.

The Convener: Apparently, there is no restriction. As long as the petition relates to the governance of Scotland and civic life in Scotland, it is legitimate.

Mike Watson: I do not suggest that we should restrict the ability to submit petitions to people who are Scottish or British residents. If people are resident within Scotland, they should be able to submit a petition. However, if the legal position is that anybody from anywhere in the world can raise an issue relating to Scotland, we should perhaps keep that rather quiet.

The Convener: Perhaps we need to raise that issue with the Procedures Committee.

Helen Eadie: I recollect that I personally dealt with the case. I recall that the lady lived at an address within the Dunfermline East constituency, which I represent. Although she has now moved to Australia, she was resident in the area at that time and that is why she has raised the issue with the Scottish Parliament. I think that I advised her that it was a legal matter although I made representations to Fife Council—if this is the same case. I cannot remember off the top of my head whether it is the same case, but I certainly had a similar case. I am surprised that it has come to the Parliament because she did not approach me to say that she was bringing the case to the committee, and I am also surprised that she did not follow the legal route that I suggested.

Ms White: I do not want to comment on the individual case because I do not think that we can do that. The petition mentions the process for resolving disputes over council tax. I am not against anyone raising issues with us—it does not matter where they live. However, perhaps this case teaches the Scottish Parliament that we should be commenting more on devolved issues, if people who are living in Australia are doing so.

Each member has had people come to their surgery to raise the issue of collection or non-collection of council tax. We should be considering why councils can send out incorrect letters that worry people and make them come to their MSP or MP to ask them to step in on their behalf. Perhaps we could consider the process that people have to go through, as well as the proposal for a third-party arbitrator. I do not know about the position of the sheriff officers. The issue of the collection of council tax merits consideration, but not the individual case.

The Convener: I suggest that we write to the minister and ask for the Executive's view before we take any further action.

Carolyn Leckie: It is okay to suggest that something is a legal matter that should be pursued through the court, but there are a limited number of people who are in the financial position to be able to do that. Most of the people I have come across who have a dispute with their local authority over council tax would never be in the position to be able to pursue a court case. There is a bigger question to do with arbitrating over whether a debt is owed. It seems that local authorities only have to say that someone's payments are not recorded on a computer and they can send in the sheriff officers. I do not think that that is enough to prove that someone has not paid.

The Convener: That is a wider issue. We are talking specifically about the process that is identified by the petitioner.

Helen Eadie: I understand that this type of claim could be made through the small claims court, which does not require people to have legal representation; they can get support from a law centre or a citizen's advice bureau. They can also include in their claim for compensation the cost of making those representations, which is the £75 that it costs to make an application to the small claims court.

The Convener: Does the committee agree to ask the minister for comments and to take up the petition when the response comes back?

Members indicated agreement.

Current Petitions

The Convener: We are pushed for time and I know that some members are trying to get away. We should bear in mind that we want to give due consideration to the petitions, but we should do it as speedily as possible.

It has been brought to my attention that Margaret Ewing is here to comment on the first petition. Once I have spoken about the petition, I will ask her to comment before we consider what to do with the information.

A96 Improvements (Elgin Bypass) (PE558)

The Convener: Petition PE558 is from Pauline Taylor on behalf of the readers of *The Northern Scot and Moray & Nairn Express* about improvements to the A96 Elgin bypass. The petitioners are calling on the Parliament to urge the Scottish Executive to include a bypass for Elgin in the programme of improvements to the A96 as a matter of urgency. The petition is prompted by the petitioners' concerns that the existing road at Elgin is unsafe, is a serious impediment to traffic using the trunk road between Aberdeen and Inverness, is a barrier to economic growth in the area and causes noise and pollution.

Our predecessor committee considered the petition in March 2003 and noted that a study had been commissioned by Moray Council on the case for a bypass. It was agreed to defer further consideration of the petition until the completion of that study.

Further responses have now been received that provide an update on developments. Members should note that the Executive and Moray Council indicate that the independent study found that a bypass would not provide any significant benefit to through traffic or to the people of Elgin because local traffic is the major cause of the problem. The study also confirmed the fact that a bypass would result in only modest reductions in traffic in the town and concluded that a bypass would not be the correct solution at this stage. The council has now agreed not to pursue a bypass in the short term, but to work with Executive officials to examine ways of resolving congestion along the trunk road route through Elgin. The council has made it clear, however, that a bypass will still be pursued as a long-term objective.

Mrs Margaret Ewing (Moray) (SNP): I apologise for my late arrival and late notification of that; I have been in Brussels for the past two days and I am just catching up on other issues.

I raised this matter in a members' business debate, by which time the independent assessors, Babbie Group, had reported back to Moray Council. Although it is generally accepted that the

volume of traffic in the town may not justify a bypass, other aspects of life in Elgin should be taken into consideration. Given the fact that the minister said that he did not rule out a bypass as a long-term solution, I wonder whether the committee could ask where that will be placed in the strategic roads review.

The Convener: Do members have any comments on that? Are we agreed that we will get a response from the minister on that?

Members indicated agreement.

Domestic Abuse (Support) (PE560)

12:45

The Convener: The next petition is PE560, submitted by Ms Claire Houghton on behalf of Scottish Women's Aid, on support for children and young people who are suffering domestic abuse. The petition calls on the Parliament to provide and ensure adequate long-term funding for support workers who deal with children and young people who experience domestic abuse. It also calls on the Parliament to ensure the provision of national minimum standards of service for those who experience such abuse.

In March, our predecessor committee considered responses from the Executive and the cross-party group on men's violence against women and children. It was noted that the Executive was providing

"funding for the 11 local women's aid groups that currently have no children's workers in order to enable the groups to provide support for the children in those refuges until March 2004."

It was also established:

"Beyond that date, a strategic approach to the funding of children's support services will be put in place that will involve a variety of partners."—[*Official Report, Public Petitions Committee*, 11 March 2003; c 2956.]

Our predecessor committee agreed to invite the petitioner to comment on those responses before taking a view on how to proceed. That response has now been received.

In her response to the committee, the principal petitioner confirms that the national group to address violence against women in Scotland has approved a proposal to set up a co-ordinated, strategic approach to the provision of support services for children and young people who are experiencing domestic abuse. She advises that the Executive is funding Scottish Women's Aid to commission research on the extent of the services that are currently available. She makes it clear that SWA and the young people who are involved in the "Listen Louder!" campaign welcome those developments.

Do members have any comments?

Helen Eadie: We all warmly welcome the developments. It is pleasing to see a good outcome to a petition. We should perhaps note that and conclude our consideration of the petition.

The Convener: Is everyone happy with that?

Members indicated agreement.

Greyhound Racing (Regulation) (PE604)

The Convener: The next petition is PE604 in the name of Andrew Wood. The petition calls on the Parliament to establish a Scottish independent greyhound regulatory body to oversee greyhound sport and the welfare of the dogs that are involved. It is prompted by the petitioners' concerns about the welfare of greyhounds in the absence of provision for retired greyhounds. They argue that the owners should be required to prove or declare how they have disposed of retired dogs.

Our predecessor committee considered the petition in March and agreed to consult the Executive, the British Greyhound Racing Board, the British Greyhound Racing Fund, the National Greyhound Racing Club and the Irish Greyhound Board. Responses have now been received, and members have copies of them together with an additional letter that was received from the League Against Cruel Sports.

The Executive states that it does not favour any change to existing legislation, on the basis that existing legislation provides adequate means to pursue those who abuse or mistreat greyhounds. However, the petitioners and the League Against Cruel Sports are of the view that the problem of the abuse of greyhounds is commonplace, especially when their racing career is over. That suggests either that the legislation is not strong enough or that offenders are regularly avoiding prosecution.

In view of the commercial nature of the greyhound racing industry, it would not be appropriate for the Parliament to take a role in setting up an independent regulatory body, as the petition requests. The only issue that the Parliament could reasonably address in relation to the greyhound industry is that of animal welfare.

Helen Eadie: Might we refer the petition to the Environment and Rural Development Committee, which will deal with the proposed animal welfare bill? That committee will be able to pick up on some of the issues that have been raised in the petition and try to address them.

Ms White: I agree. Animal welfare is a matter of concern to everyone, whether or not the legislation is reserved. As the Environment and Rural Development Committee is considering legislation on animal welfare, it would be eminently sensible to send the petition to that committee.

The Convener: I should put on record the fact that Linda Fabiani, who has had to leave the meeting, has a particular interest in this issue, as she has a background in greyhound racing—you would have to ask her what that involvement entailed. She has asked the committee to take the course of action that has been suggested. Is everyone happy with that?

Members *indicated agreement.*

Abortion (Information on Procedures and Risks) (PE608)

The Convener: The next petition is from Jane MacMaster and concerns information provided to women who undergo an abortion procedure. The petition calls on the Scottish Parliament to take the necessary steps to ensure that national health service trusts and other abortion providers in Scotland give full written information to every woman about to undergo an abortion procedure of the possible risks of the procedure, including the long-term physical and mental health risks.

In March 2003, our predecessor committee agreed to write to the Scottish Executive, the Royal College of Obstetricians and Gynaecologists and the Family Planning Association on the issues raised. Responses have now been received. Members will note that the Scottish Executive makes it clear that the RCOG is the recognised authority on the provision of guidance on abortion issues to clinicians and patients and explains that the guidance that is available is about to be updated. The RCOG says that it is to review its abortion guideline later this year, and the FPA reports that guidance produced by health boards meets the RCOG's standards.

Given the reliance on the guideline by all the agencies involved in providing information on abortion, it would appear that any significant change to that document would require corresponding changes to be made to information material.

The FPA has flagged up the more general need to improve funding for counselling services. However, that is not the subject of the petition.

Carolyn Leckie: I was not a member of the Parliament when the petition was first submitted, but I am sure that everyone would support a commitment to increase resources to support women considering termination. However, the petition is heavily weighted towards the psychological cost to women of having a termination and does not mention the psychological cost to women of not having a termination or of being unnecessarily delayed in their attempt to obtain a termination. I would be concerned about including a slant in guidance towards any particular psychological aspect of

terminations. We should bear that in mind in relation to the advice from the RCOG. I do not think that it would be right to concentrate on one specific aspect in guidance, which I think is okay at the moment. I agree with the FPA when it says that guidance has to be backed up with better resources.

Helen Eadie: The FPA addressed the issue of increased funding. Although the Executive quite fairly points out that RCOG is the recognised authority on the provision of guidance on abortion, there is an important issue relating to the well-being of all women, whether or not they decide to have a termination.

We have to ask whether there are appropriate and sufficient counselling services for all women, whichever choice they make. I believe that the FPA's response indicates that they are not happy about the current situation in that regard. The Executive does not appear to have picked up on that point and it would be useful if we could ask the Executive what resources are being made available and whether any increase in those resources is expected.

Ms White: The issue is not whether the guidance is for or against abortion; it is to do with resources and the ability of people to get access to information. I am not against anyone getting information about anything. The petitioner seems to be saying that information is not available because of a lack of resources. I back up Helen Eadie's suggestion of writing to the Executive to ask whether more resources will be made available to the FPA to provide information, although it should be equal across the board and not skewed in one way or t'other.

The Convener: We must be careful because the petition does not ask for that; it asks for information to be provided prior to abortions. The Executive's answer was that it is for the RCOG to provide that information. The FPA picked up on that point. I do not dispute the fact that the resourcing of advice and counselling is an issue, but the petition is specifically about services that are provided prior to abortion, and that is the issue on which we must concentrate. Although the FPA response says that it would like an improvement in counselling across the board, we must decide what to do with the petition; we should not seek more information on something that the petition did not ask about.

Helen Eadie: That is a fair point, but the FPA's response says that it is not entirely satisfied, even though the initial point has been addressed. The reply states that improvements in counselling pre-abortion and post-abortion could be made available in all areas and that more funding needs to be made available to provide counselling services for all women who feel that they need

them. Technically, you are correct, convener, because the specific point that the petition raised has been answered. However, we might want to pick up on that further issue. I am not sure what other members feel about that.

The Convener: The petition, which was made on behalf of a pro-life organisation, is specific and we would not be addressing it if we generalised our work to cover information that is provided across the board. That does not mean that we cannot consider the wider issue, but the Executive's response has answered the petitioner's point about counselling and information that is provided prior to abortions. If we took further action, we would go into issues on which the petition does not touch. I do not want to stray into issues that are not covered in the petition.

Carolyn Leckie: My concern is that the intent of the petition is to prescribe the sort of advice that is distributed to women, from the point of view of one agenda. I do not want the committee to pursue the matter any further than is necessary to allow people their democratic right to express their view. I hope that there will be a consultation on the sexual health strategy. People should contribute to that strategy, which is not only about leaflets and counselling on terminations or fertility—there is a host of issues, such as access to terminations, postcode terminations and so on. The subject is worthy of examination by the Parliament. It is not right to consider only a wee bit of that larger issue, particularly given the nature of the petition.

The Convener: Do members agree to take no further action on the petition, as the responses answer the points made in the petition?

Members indicated agreement.

Seagulls (Health and Safety Hazards) (PE616)

The Convener: Petition PE616, which is from John Boyd on behalf of Wellpark Action Group, calls on the Parliament to investigate and assess the health and safety hazards caused by seagulls in urban areas. The petitioner is concerned about the threat to public safety in the Wellpark area of Kilmarnock caused by the marked increase in the number of seagulls that nest and breed in the area and their level of aggression during the spring and summer months.

The committee considered the petition on 25 June and agreed to write to the Executive to request its views on the issues raised and to consult the Royal Mail about the action it has taken to protect its staff from attack by seagulls. Responses have been received, together with a letter from Fergus Ewing MSP, who supports the petition. The Executive has indicated that, as an

interim measure, it will issue new guidance on the matter following discussions with local authorities. The Executive acknowledges that the problem has no easy answer, but states that it intends to commission research into the breeding cycles and feeding patterns of seagulls as a step towards identifying a long-term solution. The research will be completed in 2004.

The Royal Mail indicates that the practice of issuing protective clothing to some of its staff in the Kilmarnock area to help to combat attacks from seagulls has been discontinued. It explains that although the practice offered protection from seagulls, it did not prevent the attacks. A solution was found that involved adjusting delivery times during the nesting season and no further problems have arisen. Fergus Ewing has supplied a copy of a letter that he sent to the Chief Medical Officer for Scotland expressing his concern that a complacent approach had been taken in assessing the public health risk caused by seagulls attacking humans. In the letter he suggests that the Executive take urgent and positive action to address the problem.

13:00

Fergus Ewing: My interest in the subject began years ago, before the day when I was out for a jog between Lossiemouth and Burghead and was dive-bombed by a seagull, which was not a pleasant experience. Over the summer, a number of mothers in Nairn were terrified and sought a cull of birds that were nesting in the vicinity of their homes after a number of incidents forced them to keep their children indoors. There is also the well-reported case, which I do not think has been mentioned, of Mr Wilfred Roby who, in July 2002, was swooped on by herring gulls while clearing a nest from his garage in Anglesey and died of a heart attack.

I feel strongly that more and more people in Scotland are experiencing the nightmare of being dive-bombed by seagulls. Although physical contact is made only rarely, I am concerned that the elderly, the infirm or the very young might be at risk and that there might be fatalities in Scotland, as there have been south of the border, as a direct result.

I have seen a briefing from the RSPB, which argues that no lethal control should be used. However, I understand that Allan Wilson recognised in a debate last year that there is a power under section 16 of the Wildlife and Countryside Act 1981 for licences to be issued for lethal control.

In areas such as Nairn, where women are terrorised by seagulls to the extent that they cannot leave their house, local authorities should

be able to employ lethal methods of control in the most humane way possible, which can include pricking the eggs—no doubt there are other methods. Local authorities have pest control departments that provide an excellent service in clearing lofts of rats, mice, squirrels and so on. It seems to me that there is a strong case for the Executive to say right now that local authorities should be tasked similarly and should be willing to act in cases such as the one in Nairn. I know that the ladies involved sought help, but they got no help from the RSPB or anybody else.

I am not advocating a mass cull, because that is plainly impractical. However, action should be taken where there is a clear and present danger from seagulls during the nesting season, when, understandably, they are out to defend nests and chicks and they dive-bomb people, which is an horrific experience. If a dog behaved in that way, it would be regarded as unacceptable and the dog would probably have to be put down. If rats, squirrels or any other animal behaved in that way, they would be destroyed by local authorities. It seems rather odd that we treat seagulls entirely differently only because they are birds and perhaps because of the lobbying power of the RSPB.

I am shocked at the Executive's complacency. It did not take action when I raised the matter in the first session. It seems that it is going to commission a report, but we already know what we need to know about seagulls and their habits; we do not need any more delays. There is a need to amend the Environmental Protection Act 1990 so that gulls are included in the definition of a statutory nuisance. That would give local authorities wider powers to act. As I have said, the existing powers should be sufficient for local authorities to step in, but that is debatable and depends on the interpretation of whether the birds constitute a threat to human health and safety or a threat of spreading disease or causing serious damage to crops and livestock. A wider definition of statutory nuisance would allow local authorities the scope that they need to act.

I urge members to accept that seagulls pose a growing and serious problem all over Scotland. If we fail to act and a fatality occurs, today's debate will be looked at again by the family that submitted petition PE616. They might well ask us, "Why did you not act before it was too late?"

Helen Eadie: I do not think that any one of us takes the problem at all lightly. Those of us who have seen the problem, read the newspapers or watched news programmes know how serious the problem could become if action is not taken. However, the paper that we have on petition PE616 shows that the Executive is commissioning research and issuing interim guidance. Given that

new guidance is to be issued and research is on-going, it might be appropriate for us to defer the petition until a future date. We could revisit it once we have seen the impact of the new guidance. If the guidance backs up what the minister said in the chamber not so long ago, it will be welcomed. I suggest that we agree that that is what we should do.

Ms White: There is probably more of a problem with gulls in city centres now than there is on the seashore. Certainly, I seem to see plenty of gulls in the middle of Glasgow. One of the concerns that I raised, which I thought we were to include in our letter to ministers, was about the task force that was supposed to have been at work in 2002-03. The reply from the Executive does not address the task force and seems to indicate that the Executive is only starting out on some of the work that should have been done in 2002-03. However, the reply shows that there is at least movement in the right direction.

I am not sure whether we should leave petition PE616 until we receive a further report from the Executive on the long-term solutions to the problem. One of the important long-term solutions is for councils to issue wheelie bins. The problem is far reaching. I am not sure that I would go so far as to say that a cull should be undertaken, but something needs to be done about the menace that seagulls pose.

Given that local authorities are responsible for cleaning up areas and providing wheelie bins, perhaps petition PE616 should be referred to the Local Government Committee. I will listen to what the rest of the committee has to say on the subject. I would like the Executive to give us a reply on the task force.

The Convener: We could do both. The Executive's response said:

"officials have met with a number of local authorities' Directors of Environmental Health on this issue".

We know that officials are hearing about the problems and learning more about councils' attempts to introduce solutions.

We could do what Sandra White suggests and wait until the report is published. We could also ask the Executive for a periodic update on the meetings that its officials are holding to find out what progress is being made. That would allow us to keep on top of the information that is being issued by whatever task force has been set up. It would mean that we are not sitting waiting until a report is published at some point in the future. Do members agree that we should monitor the situation as it develops?

Carolyn Leckie: I agree with the convener's suggestion. I would be concerned if we simply left

the issue ticking over, as the subject of the petition has to be dealt with. I am not persuaded that lethal methods are warranted. The RSPB response raises some serious issues in that respect that have resource implications in the long term.

Even if lethal measures were taken, I am not sure that that would solve the problem, as the population of gulls is falling. The problem is where the gulls are, not how many of them there are. Measures need to be taken to ensure that the gulls are not attracted to urban areas. We need to tackle rubbish—including from outlets such as McDonalds—nesting sites and so forth. Although such measures are complicated, I hope that there is no delay in implementing them.

The Convener: What I was saying in response to Sandra White's suggestion was that, in addition to the report that we expect to receive, the Executive is considering interim measures and new guidance. We could request the information when it becomes available and consider it to see what progress has been made to address the concerns that Carolyn Leckie set out. Ultimately, we will have the report. I hope that it reaches us in the near future. At that point, if we believe that a parliamentary committee should examine the issue, we could action petition PE616.

Fergus Ewing: May I—

The Convener: I am sorry, Fergus, but we are pushed for time. We have given the subject a good airing and do not need to seek further clarification or raise further points about seagulls. We are talking about what we will do with petition PE616. I think that committee members agree that we should ask the Executive for updates on the progress that it is making towards addressing the petitioners' concerns. Is that agreed?

Members *indicated agreement.*

Historic Scotland (Church Building Restoration) (PE620)

The Convener: Petition PE620 was submitted by Robert McWilliam on behalf of the kirk session and congregation of Riccarton parish church. The petitioner calls on the Parliament to investigate whether the grant-awarding practices of Historic Scotland are fair and reasonable and whether the use of listed places of worship is proper.

Members will recall that the petitioners were concerned that Historic Scotland's practice of approving applications for church restoration projects phase by phase makes it almost impossible to plan congregational finances. They illustrated the point by arguing that Historic Scotland had allowed the congregation of Riccarton parish church and its design team to assume that the original grant level of 60 per cent

would carry forward into later phases of their restoration work, when in fact it was reduced to 40 per cent.

The committee considered the petition on 25 June 2003 and agreed to write to the Scottish Executive seeking its views. A response has now been received. It provides comprehensive information on the operation of Historic Scotland's historic buildings repair grants scheme and of the United Kingdom-wide listed places of worship grants scheme. The main point to emerge is that the level of HBRG is reduced in later phases of repair projects as an alternative source of funding from the LPWG scheme comes into play at that stage. As the LPWG reduces the overall cost of the project to the applicant, it is necessary for it to be taken into account when calculating the level of grant support to be offered, to ensure that public money is not, in effect, being paid twice.

The Executive's response to the petitioners' concerns appears reasonable, and there is little to suggest that the grants system is flawed. However, there is a current review of the system of grants, as well as an examination of the appropriateness of the process as part of the wider review of Historic Scotland's structure and functions. The lack of clarity in the way in which information was given to the members of Riccarton parish church led them to believe that moneys were available that were not available. There might be good technical reasons why funds from one grant might impact after a certain amount of money is raised, but the congregation did not know that, which is what the petition was trying to get at. Why did the congregation start on a process in the belief that a certain level of funding would come from one source and then discover halfway through that process that the level of funding would not be what they expected? It may be that another grant kicks in—technically, that seems to be the case—but the fact is that the congregation of Riccarton parish church was working on the basis of projections of funding. It had fundraised and believed that a certain level of finance would be available and was left in a state of turmoil when information that it should have had at the outset eventually became apparent.

We must examine the information that was provided and the communication, not only in the case of Riccarton parish church, but more generally. There seems to be a general concern. Although an answer has been provided, that answer raises issues about how grants have been dealt with and about the information that was provided to Riccarton parish church.

Carolyn Leckie: I agree with your assessment, but I am not sure what we do with the petition.

The Convener: We could write to Historic Scotland and ask it to take account of the

information that we have received. Historic Scotland has a duty to take applicants through the process properly. The issue is about not only distributing grants, but ensuring that applicants are aware of the process that they are entering into and that they can carry it through with confidence.

Carolyn Leckie: I assume that the petitioners are aware of the information. Has it addressed their situation?

The Convener: It clarifies where they stand. I do not know that it will help, because I do not think that anything will change. Historic Scotland is undertaking a review. We should take advantage of that review to say that the issue has been raised in relation to Riccarton parish church and to ask Historic Scotland to take account of it and address the problem.

The problem was not that the funding was inappropriate or that the system that was in place left people without the funding that they expected; it was just that the communication process that was used left them in a situation in which they did not think that they had the money that was to become available to them. I am sure that if we are wrong on that, Historic Scotland will let us know. It seems that the process is legitimate; it is just that how the funding would be paid was not communicated to the people who were receiving the funding, which left them in turmoil.

Ms White: As a committee, do we have any input to the on-going review of the grants scheme?

13:15

The Convener: I am suggesting that we should make such an input. We now have the information; the problem was that the parish council did not have it.

Carolyn Leckie: The parish council had to plan on the basis of a lack of information or of misinformation. That is the problem that must be addressed and avoided in the future. We should use whatever avenues we can.

The Convener: I suggest that we write to Historic Scotland to say that we want that area to be dealt with as part of the review. We will not take any further action on the petition. Technically, the grants system was okay; it is just that the mechanisms for funding were never explained adequately. We want to address that aspect.

Ms White: Can we write to the petitioners to say that, although the committee will take no further action on the petition, we are so concerned that we will comment on that in the review?

The Convener: That is exactly what we will do.

Convener's Report

13:16

The Convener: Unfortunately, Mike Watson has had to leave the meeting because of prior commitments. He has raised with me the subject of the e-mail that we were all sent at the start of the week about our discussion of the Scottish Agricultural College. At the time of our discussion, we were not clear about decisions that might or might not have been made and what the impact of any such decisions might be. The petitioner paid attention to our debate that morning and sent an e-mail that highlighted some information. If we had had that information at the time, matters would probably have been much clearer. I think that Mike Watson wants us to make that information available to the Environment and Rural Development Committee, which is investigating the issue, to ensure that it does not have the same debate that we had, which was the result of a lack of clarity in the information. We should send the contents of the e-mail to the Environment and Rural Development Committee, if that is okay with members.

Members indicated agreement.

The Convener: There is an issue to which I would like members to give some thought, although we do not necessarily need to have a discussion on it at the moment. At the tail end of last week, I was contacted by a member of the public who sought clarification on the mechanism for lodging a petition. In my view, that person had a legitimate concern. They were concerned that the process of lodging a petition would have identified them individually. They wanted the issue in question to be raised, but did not necessarily want to become involved publicly in consideration of the issue, as the matter was highly personal.

There is no provision for anyone to lodge a petition anonymously. Such a practice might have implications. Members should be aware that a discussion has been taking place about what appears to be a gap in the provision in relation to the lodging of petitions. We have considered e-petitions and all sorts of things. I ask members to give some thought to the pros and cons of a mechanism that would allow someone to get a petition into the system and to raise a pertinent issue without having to identify themselves.

Helen Eadie: Could the person concerned not raise the matter with their MSP? An MSP can highlight a general issue without revealing a person's identity.

The Convener: I think that there was an issue with that as well. The petitioner wanted to lodge a petition to highlight their specific concerns about

the system in which they were involved and did not have the confidence to go to an MSP about that, as that would have made matters a bit more public than they would have preferred. If any member seeks further clarification, I will speak to them. I cannot put anything on record on the individual case, but I can speak to the committee about how the discussion came about. That might help to get members' thought processes going.

Carolyn Leckie: I had the same initial thoughts as Helen Eadie—if the person concerned does not want to raise the issue themselves, they could get their MSP to do it. I am struggling to think how the scenario could be dealt with. I am generally not in favour of any private sessions, as I think that the Parliament should be open and transparent, but I do not know whether the Public Petitions Committee could have a facility to go into private session for the petitioner's benefit. I am not even sure whether that would be all right in the case in question.

The Convener: As the issue had not occurred to me before, I wanted to seek members' views before taking the matter any further. I raise it as a general issue for members to discuss. Steve Farrell has some views on the subject.

Steve Farrell (Clerk): I suggest a fairly simple solution. In the circumstance in which a petitioner makes a request not to be identified publicly for a very sensitive reason, we could reach agreement—through the convener—to ensure that that person's name and address is never made available publicly, either in the committee's discussions or on the website. We would keep the petitioner's details to allow us to contact them directly to let them know the outcome of the committee's considerations and so on, as it is important to maintain that link. If the committee thought that, in certain circumstances, there was no need to identify publicly the individual concerned, the committee could agree not to do so. That seems to be a reasonably straightforward way of dealing with the situation, which would not require a change to our processes or to standing orders.

The Convener: We do not need to make any decisions now; I just wanted to ask members to give the issue some consideration and to give me some feedback.

Meeting closed at 13:21.

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