

PUBLIC PETITIONS COMMITTEE

Wednesday 12 November 2003
(*Morning*)

Session 2

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PUBLIC PETITIONS COMMITTEE

7th 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 :

Mark Ballard (Lothians) (Green)
Keith Cowan (Outright Scotland)
Mr David Davidson (North East Scotland) (Con)
Brian Dempsey (Outright Scotland)
Phil Gallie (South of Scotland) (Con)
Christine Grahame (South of Scotland) (SNP)
Iain MacPhail
Alex Orr
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
Tommy Sheridan (Glasgow) (SSP)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

The Hub

Scottish Parliament

Public Petitions Committee

Wednesday 12 November 2003

(Morning)

[THE CONVENER *opened the meeting at 10:11*]

New Petitions

Domestic Abuse Policy (PE644)

The Convener (Michael McMahon): Good morning and welcome to the seventh meeting of the Public Petitions Committee in the second session of Parliament. We have a busy agenda, so we will crack on.

The first petition that we must consider is PE644, on the Government's domestic abuse policy, in the name of Mr Keith Cowan, on behalf of Outright Scotland. The petitioners call on the Parliament to urge the Executive to develop its current gender-based policy on domestic abuse to include all other forms of abuse that take place in domestic settings. Keith Cowan and Brian Dempsey are here to give a brief presentation in support of the petition.

Mike Watson (Glasgow Cathcart) (Lab): I declare an interest as a patron of Outright Scotland.

The Convener: Thank you, Mike. That is important.

I welcome Keith Cowan and Brian Dempsey, who have three minutes for their presentation. Members will then have the opportunity to ask questions on issues that are raised. Mark Ballard MSP is also here to speak.

Keith Cowan (Outright Scotland): Good morning. I thank members for giving us their time.

I represent Outright Scotland, which is a small and unfunded lesbian, gay, bisexual and transgender rights organisation that has a long history of successful campaigning in Scottish society.

We would like to make four points about our petition, which members will have read. First, domestic abuse that women suffer at the hands of men is a serious problem in Scotland and resources are needed to tackle it—we have no argument at all about that.

Secondly, every year, thousands of female victims of women, male victims of men and male

victims of women report having been assaulted by their partners. Therefore, domestic abuse does not affect exclusively female victims of men.

Thirdly, the operation of the current gender-based definition of domestic abuse has the unintended effect of marginalising other minority victims of abuse, which also leaves their children unprotected. Last, we believe that no victim of domestic abuse deserves to be made invisible in the fight to end domestic abuse in Scotland.

We ask Parliament to consider such concerns, to consult on a way forward and to ensure that all victims of domestic abuse are recognised and supported. That consideration might be undertaken by a committee's taking evidence from LGBT groups, the police and experts in family law—perhaps one of the justice committees could do it. We are happy to answer questions and to be constructively involved in future deliberations.

The Convener: Does Mark Ballard want to say something before we move to questions from committee members?

Mark Ballard (Lothians) (Green): It is clear that the petitioners are not asking for replacement of the current policy. They have made it clear that they support the work of the Executive and organisations such as Scottish Women's Aid. Compared with men, 10 times as many women suffer from domestic violence—we ought not to underestimate the scale of the problem that is faced by women throughout Scotland. The petitioners call for provision that would tackle the problems that are faced by the small minority of men who face domestic violence. Such provision would be additional to current provision for domestic violence. I am here to support the petition, which would add to existing Scottish Executive policy rather than undermine or contradict it.

10:15

Linda Fabiani (Central Scotland) (SNP): Good morning. I am losing my voice, so please excuse me if it goes. I remember from the short time that I was on the Equal Opportunities Committee that there was a commitment that LGBT issues would be considered in a much wider scope. I would have imagined that this issue would be part of that. Has the Equal Opportunities Committee considered any issues related to your petition?

Keith Cowan: We are not aware that it has. We raised our concerns with the Scottish Executive equal opportunities unit, which agreed that there is a problem that should be examined. All that we are aware of is that there has been an acknowledgement that research is needed.

In the middle of 2002, the Executive conducted some research into domestic abuse against men

in Scotland and only a small section of the conclusion to that research refers to LGBT people. It says:

"Innovative research strategies will also be needed to adequately investigate the extent and nature of abuse experienced by men living with male partners."

I am not aware that that has been acted on in any way. Because Outright Scotland is a lesbian, gay, bisexual and transgender organisation, we are also concerned about lesbians, bisexual and transgender people who experience domestic abuse.

The situation is different in England and Wales, where the Home Office has an inclusive domestic abuse strategy. The Home Office consulted widely on that and it paid an organisation called the Broken Rainbow Forum to conduct specific consultation and research in the LGBT community. That means that the Home Office's guidance on domestic abuse has, for example, specific reference to the needs of transgender people who experience domestic abuse. We are not aware of any similar guidance in Scotland.

Ms Sandra White (Glasgow) (SNP): You mentioned the research that was done by the Executive. I know that you are a voluntary group, so funding will obviously be difficult for you, but have you done any research into abuse and do you have any figures? I do not see any in our papers. You mentioned the example from England. Do you know how much that cost to set up?

Keith Cowan: We do not have the resources to do such research. The only statistics that we have come from a statistical bulletin that the Executive produces each year, which reports on recorded domestic abuse in Scotland. I think that a new bulletin is due out now; the most recent one that I have, which was published in October 2002, says that the vast majority of people who experience domestic abuse are women, as Mark Ballard said.

In 2001, 32,509 women reported domestic abuse, although it is likely that there is huge under-reporting of such abuse. The number of men who experienced domestic abuse was 3,260; I argue that there is also likely to be under-reporting by men. The figures for same-sex domestic abuse are unclear. We know that there is under-reporting of all kinds of homophobic crime and that LGBT people have a history of under-reporting. We have not been able to do much research into the extent to which LGBT people experience domestic abuse other than to look at the figures—international comparisons suggest that levels are similar to those in heterosexual relationships.

Ms White: You mentioned research that was done in England; there is obviously funding there

for that. How much would it cost to set up that research?

Keith Cowan: I do not have those figures with me because I was not expecting to go into much detail at today's meeting. We are not looking for the Executive to fund lots of refuges and so on for people who experience domestic abuse. The abuse that women and their children experience will be different from the domestic abuse that men experience, although domestic abuse is experienced by men all over Scotland, no matter who the abuser is. All we are saying is that the domestic abuse strategy and the Scottish Executive's definition of domestic abuse need to be wider than they are.

In having a cross-party group on men's violence against women and children, the Scottish Parliament is taking the approach that we favour. It is saying not that domestic abuse is only men's violence against women, but that although there is men's violence against women, other violence takes place in domestic settings. That is the approach that we favour.

John Scott (Ayr) (Con): I have a follow-up question to Sandra White's question. I am still trying to get a handle on the number of people who are involved. Can you estimate the scale of the problem? Are we talking about 50, 500 or 2,000 to 3,000 people in a year?

Brian Dempsey (Outright Scotland): The statistical bulletin for 2001, to which Keith Cowan referred earlier, shows that there were 229 male victims of male perpetrators who reported to the police that they had been victims. There were 133 female victims of female perpetrators who took the trouble to report to the police. That is about 350 people, and I understand that the numbers have been fairly consistent over the years. We may be talking about a relatively small number of cases. If 350 gay men, lesbians and people in same-sex relationships have gone to the police, we may be talking about as few as 600 to 1,000 people in a year.

We do not know how many of those couples have children, although some will, but those adults and children are excluded from some of the protections in law. A child who is living with mixed-sex parents receives greater protection from domestic abuse than a child who is living with same-sex parents, which seems to be unreasonable. I cannot speak for those people, but there is anecdotal evidence from groups in Scotland that there is a problem. Even if the number of victims is between 500 and 1,000 people a year, those people are still suffering to the extent that they report to the police. It may be a small number, but it is not a minuscule number.

John Scott: You say that children who live with adults who are in same-sex relationships might not enjoy the same protection in law that children who live with people in mixed relationships enjoy. Why should that be? Why should they not enjoy the same protection under the law?

Brian Dempsey: Are you asking what the justification is or what the factual basis is?

John Scott: Both.

Brian Dempsey: I do not think that there is any justification whatever for telling a child that, because their mother lives with another woman, they are going to be treated differently from a child who lives with mixed-sex parents. I see that some members are shaking their heads. However, I am doing a PhD on family law so I have some knowledge of the matter, although I am not an expert. The Matrimonial Homes (Family Protection) (Scotland) Act 1981—I think in section 18—excludes same-sex couples and their children from the protections in that act. That is primary legislation that treats the children of same-sex couples less favourably than it does the children of either married or cohabiting mixed-sex couples.

Carolyn Leckie (Central Scotland) (SSP): I am sympathetic to the aims of your petition and to your trying to identify a strategy and resources to tackle the problem. You want those aims to be included in the domestic abuse strategy. I am sure that you know that the political definition of gender-based domestic abuse was fought for vigorously so that there was recognition that there was a power relationship in society between men and women. That is really important for people who have campaigned for women. There are other issues: violence and abuse of elderly people, for example. Are you keen, for political reasons, to have the aims included in the domestic abuse strategy? Alternatively, do you wish simply to attract resources, draw attention, raise awareness and ensure that rights are protected, but not necessarily under the domestic abuse umbrella?

You mentioned the cross-party group in the Scottish Parliament on men's violence against women and children. Is there an argument for a specific strategy? You said that some people who experience abuse might have different needs and might not require the same approach, involving Women's Aid. Are more specific strategies needed to deal with abuse of elderly people in the community? What is the emphasis? What is really important to you?

Brian Dempsey: Both aspects are important, but it is difficult to say what comes first. We want all victims of domestic abuse to be included in awareness-raising campaigns, education and training for people who work in the national health service or local authorities so that they get

recognition and support. We want people to have the recognition, support and services that they need. It should not be an abstract thing; we should not say, "We recognise you, but we don't give you services."

There are ambiguities in the definition that the Executive has come up with and in how it is applied. All victims should be included in the domestic abuse strategy. We do not know terribly much about this area, but I know that in some discussions some Asian groups have said that the focus on individual male power over the woman does not necessarily reflect their life experiences, in particular those of young women, where the family is important. They sometimes feel excluded by the specific definition.

I would like there to be an inclusive domestic abuse strategy that includes explicitly all victims of domestic abuse. Within that, the biggest and perhaps most important tranche or aspect would be a vigorous, gender-based understanding of the power of men and women in society. I would not equate that with the overall domestic abuse strategy. We have to have an inclusive overall strategy, within which the biggest aspect is men's violence against women, because that reflects the reality of society. It does violence not to include that in the overall strategy.

Jackie Baillie (Dumbarton) (Lab): I know Keith Cowan from an earlier existence, but I have not met Brian Dempsey before.

I have a number of questions. First, although what you said about the Matrimonial Homes (Family Protection) (Scotland) Act 1981 was accurate, it has nothing to do with the way in which children are treated in the first instance as a consequence of domestic abuse. Naturally, the Children (Scotland) Act 1995 is the act under which children are given the primary focus. We should be careful not to talk at cross purposes. However, I note what you said. I am pleased that the Executive is to introduce a family law bill during the second session of Parliament—you might need to relearn what you have learned already.

The issue of scale is involved. I recognise the difficulty that you expressed about the figures' being imprecise—we are all troubled by that. The statistics to which you referred were collected for the first time. I understand that the research indicated and underlined that, in something over 90 per cent of cases, we are talking about males perpetrating violence against women.

10:30

The remaining 10 per cent covered a variety of cases including those in which women perpetrated violence against men or against other women and

in which men perpetrated violence against other men. We have rightly to pay attention to the scale of the problem. I am not saying that your problem does not matter because it is small, but acknowledgement needs to be made of where resources should be concentrated. Is the evidence base satisfactory or does more work need to be done?

My second question is about definitions. You will be aware of the Executive's booklet "Domestic Abuse—There is no excuse", which has been reprinted several times. I would like your comment on the definition of domestic abuse that is included in the booklet:

"It includes all kinds of physical, sexual and emotional abuse within all kinds of intimate relationships. Usually women are abused by men, but it also occurs in same sex relationships and in some cases men are abused by women partners."

Is not that what you are asking for or have I got it wrong?

Brian Dempsey: On the last point about the definition, with respect, I think that you have got it wrong. I understand that most violence is done by men against women and that some men suffer violence at the hands of women. As a lesbian, gay, bisexual and transgender organisation, we are looking for recognition of the fact that women can be abused by women and that men can be abused by men. The definition that you read out is not acceptable to us.

Jackie Baillie: As this part of the definition is critical, I will repeat it:

"Usually women are abused by men, but it also occurs in same sex relationships and in some"—

Brian Dempsey: Right. I beg your pardon. In that case, the definition appears to be acceptable. There has been a change in Scottish Executive documents over the past few years and perhaps lesbian, gay, bisexual and transgender organisations can take some credit for that. A few years ago, the subject of domestic abuse was seen as being about what men do to women. Nowadays the Executive's position is that it accepts—perhaps reluctantly, I do not know—that domestic violence comes in other forms. The Executive tends to say that before immediately moving on. One example is "Preventing Domestic Abuse: A National Strategy", in which an oblique and somewhat cynical reference is made to other forms of abuse in one paragraph while the rest of the document talks about domestic abuse in terms of abuse by men against women. Such recognition needs to be more than a token. That said, I accept that the definition that Jackie Baillie gave sounds useful.

Mike Watson: Jackie Baillie dealt with one of the areas that I wanted to speak about, which is

the question of the scale of the problem. The figures that you quoted of 229 male-on-male victims of violence and 133 female-on-female victims might seem to be relatively minor. How much of the country do the figures cover? Is it Scotland as a whole or one part of the country?

Brian Dempsey: They cover incidents that were reported to the police in Scotland as a whole in one year.

Mike Watson: So you have done a trawl of Scottish police forces to find out what incidents were reported.

Brian Dempsey: No. The figures are taken from an Executive criminal justice series statistical bulletin. I can read out the reference number if you would like that on the record.

Mike Watson: No—as long as the figures are Scotland-wide. I missed that point when you gave the figures. We should draw that point to the attention of the Executive.

I am aware of what the Executive has said. The petition asks for other forms of abuse to be included and I think that the Executive can say that it has done so. Jackie Baillie has demonstrated that by reading from the booklet on domestic abuse. I support what Keith Cowan said: this is not about displacing any current spending. However, there is clearly a need for additional spending. That is the hurdle that has to be cleared when making a case to the Executive.

The Executive is doing work on children and vulnerable adults but this seems to be an area where the Executive is not doing any work. If figures are available for forms of domestic abuse other than male on female, we could make a case that the Executive should reconsider the issue. The Executive will be able to read the official report of the evidence that Brian Dempsey and Keith Cowan have given and we could ask it to comment.

The Convener: I will take that as a recommendation.

Linda Fabiani: I have read the petition and listened to your evidence, and they seem to be two different things. The petition is wide and not at all precise or focused; but when I listen to you talk it is quite clear—although you must correct me if I am wrong—that your main concern is a justified concern about LGBT relationships. Your petition does not specify that, so what exactly do you want to achieve?

Brian Dempsey: In the first instance, through this committee, we would like there to be a short period of focus on the forms of domestic abuse that are not covered by the definition of domestic abuse as being gender-specific abuse. Our specific interest is in lesbian, gay, bisexual and

transgender people. We argue that those people are being marginalised and made invisible, and we ask that some time, energy and resources be spent on the problem to discover its extent and to identify the awareness, training and services that are required.

We do not come with a list of demands, saying that each local authority housing department must have this particular definition, or that the national health service must take that particular approach. What we are looking for is the support of this committee to find a way for Parliament and perhaps the Executive to spend some time—perhaps only a short time—considering the issue in consultation with LGBT groups and legal authorities such as Professor Norrie. That is what we are asking for today; as to what we will ask for further down the line—I do not know.

Linda Fabiani: That answer reinforces what I was saying: your petition does not ask for specific things. If we were to send the petition to the Executive without any of the back-up information that we have learned today, it would not be at all clear what the Executive was being asked to do.

The Convener: Mike Watson has recommended that we ask the Executive to consider the points that the petitioners have made this morning.

Jackie Baillie: Mike Watson's suggestion is helpful; the petitioners have been helpful, too. I am aware that the whole area is imprecise. The petitioners refer to a national strategy on domestic abuse, but that idea is quite old and predates the domestic abuse policy. The Executive's thinking has, I know, moved on. We need to be clear about which documents we are referring to and when they came out.

I pick up from what people have said that the subject is imprecise and that we need an accurate evidence base on which to formulate any kind of policy. It would be legitimate to return to the Executive to ask it whether it intends to follow up the research that it has conducted and which suggests that it should do more. That would develop the evidence base and allow us to decide whether, if a problem exists, something needs to be done about it. However, if the scale of the problem is not significant, at least we will know that. That would build on Mike Watson's suggestion.

John Scott: I agree with the thrust of what Mike Watson and Jackie Baillie said—we must write to the minister. I understand from what has been said that the available funding is targeted at male-on-female domestic abuse. Therefore, there is a problem—although it is not huge—that I do not see being addressed, although others will correct me if I am wrong. That problem means that we

should write to ask for the minister's views and to ask whether new funding might be made available to tackle the problem. Is that reasonable?

The Convener: I invite members to comment. I think that the suggestion is reasonable.

Ms White: I agree with Mike Watson that the problem exists no matter how small is, but I want the Executive's reply to include women's violence against men. It seems from cases that I have dealt with in surgeries and elsewhere that that is becoming more prevalent. I do not want the subject to be narrowed to include only same-sex couples. As Linda Fabiani was right to say, that is not what the petition asks for. I am concerned about the issues that have been raised, but also about women's violence against men within and outwith marriage. I want that to be included in any correspondence with the Executive and I back Mike Watson's recommendation.

Carolyn Leckie: All that I will add to what John Scott said is that the question is not only about resources. We need to develop policy on what is necessary. What resources are needed, and for what? For example, employment policy should ensure that people who are abused have the right to time off work to seek housing and it should ensure that they can transfer their employment. Development of such policies would help, although the needs are complicated and have to be explored.

The Convener: Is everyone happy with the recommendation that, on behalf of the petitioners, we ask those questions of the minister, which we hope will progress the issue?

Members indicated agreement.

The Convener: I thank the petitioners for giving us their time.

Containerisation of Waste (PE661)

The Convener: Petition PE661 is on the containerisation of waste and is in the name of Mr Iain MacPhail. He calls on the Parliament to take the necessary steps to ensure effective and detailed consultation by and public accountability of local authorities in implementing containerisation-of-waste programmes. Mr MacPhail is here to make a brief presentation in support of his petition.

I welcome Mr MacPhail. You have three minutes to speak before we ask questions.

Iain MacPhail: I thank the convener and the committee for hearing our petition. I will not read out the petition; I will just outline why we submitted it and what we hope to achieve.

Our petition centres on effective consultation of voters by local authorities. Effective consultation is

an important part of modern politics. In this time of supposed voter apathy and a remote policy process, effective consultation provides a good link between policy makers and voters and between service providers and service users. It is the means by which good, relevant and appropriate decisions are made and by which bad decisions are avoided.

As major service providers, local authorities need to consult effectively. By that we mean seeking information or advice from service users and from those who are affected by their policies with a view to providing services that best meet the needs of the communities that they serve. That is achieved by getting out there and finding out people's wants and needs through listening to their input. That should be done in a structured manner that homes in on the most relevant issues. Local authorities should find out the extent to which service users' expectations can be met, given the limited resources that are at their disposal, and go out and provide the service. Local authorities should also reflect on how the consultation process went and act on any areas for improvement.

That is a model of open government that fits with the principles of the Scottish Parliament, which we think should be applied in local politics as well. The open government approach, combined with effective consultation, did not happen in Edinburgh with regard to the policy of the containerisation of waste. Our concern is that some local authorities are unwilling or incapable of ensuring the effectiveness of their consultation procedures in the absence of guidelines from the Scottish Parliament. We ask members to consider that with a view to ensuring that the experience that we had is not repeated elsewhere in Scotland.

The containerisation of waste is a fairly mundane, universal and straightforward issue; it is not complex. We all produce waste and need it to be taken away and some of us want some of it to be recycled. Those are the only issues involved. As such, the issue is a useful benchmark for assessing whether local authorities are indeed committed to effective and proper consultation and accountability. If they cannot get this right, heaven help us when they try to deal with more complex issues.

We can list a number of issues that we raised with the council that the council did not listen to and we could outline flaws in the consultation procedures. However, perhaps it is sufficient to say that the council concluded from its consultation process that the main issue was whether to containerise or not although, if it had listened to us, it would have learned that the issue was how best to containerise, taking into account the needs of the elderly, the infirm, the frail and

the disabled, parking considerations, recycling considerations, road traffic considerations, other planning permission considerations and so on. We outlined many such aspects, but the council did not listen. We are concerned that none of that registered.

Without a willing listening ear, a consultation process is rendered useless, pointless and redundant. It seems that some local authorities require guidelines from the Scottish Executive to ensure that their consultation procedures are effective.

10:45

Jackie Baillie: Will you clarify for us whether you are opposed to the policy of containerisation?

Iain MacPhail: Far from it.

Jackie Baillie: Therefore, the issue is the siting of the containers and the fact that the local authority did not appear to take on board your views. Is that correct?

Iain MacPhail: This is not a personal issue. Our community called a public meeting at short notice at which there was standing room only. The discussion was about not only where to site the containers but what kind of container would best fit with the area. A lot of elderly, frail and disabled people find it difficult to use the massive containers that eventually arrived. We thought that there were smaller and better alternatives that would also have the effect of encouraging recycling, so we thought that there was room for discussion. We were trying to make constructive points, but we were not listened to.

Jackie Baillie: How often did the council meet members of the community? There is a suggestion that consultation exercises were held in the Dean ward between April and June 2003.

Iain MacPhail: That depends on your definition of effective consultation. A public meeting was called by the Liberal Democrat councillor for the Dean ward but the council executive decided that it did not want to send anyone to the meeting. After some pressure, it sent someone, but the issues that were raised were never taken forward. At the meeting, we were promised that there would be street-by-street consultation, but that never took place. There was no effective consultation as the council did not actually listen to what we were saying.

The points that were raised at the meeting were all fairly relevant and the opinions that were expressed were all constructive. People wanted to play a positive part in the rolling out of a straightforward policy. However, our suspicion is that the raw materials had already been bought by that stage and that there was no room for the council to change its plans if it had listened to us.

Jackie Baillie: Are you saying that there were no public meetings apart from that one?

Iain MacPhail: There was one visit from a council official in May, but I would argue that that was not consultation at all. The visit was not about asking local people's advice or gaining local knowledge, but was basically to say, "We are going to come round in about five weeks' time and put a big black bin at the spot on the road where an X has been written." That is not consultation. There was contact, but not consultation.

Mike Watson: Your petition describes the consultation procedures as "incompetent". You then said that there was one public meeting and a visit from an official. If, after that meeting, the City of Edinburgh Council had reversed its decision, would you still have regarded the procedure as incompetent?

Iain MacPhail: We were not seeking to reverse the decision; we were seeking to have the containerisation done in the best possible way for the community. If the council had come to that meeting, listened to us and taken on board what was coming from the people, who just turned up—there was no great amount of organisation—I would have considered that to be a good start. I have said it already today, but I hoped that consultation would be carried out in a structured manner. The consultation process—if you can call it that—was haphazard at best. It was not planned or structured in the way that consultations should be. Consultations should go from A to B to C to D and come up with a conclusion.

Mike Watson: My point is that people judge procedures in terms of their efficacy. If they get the result that they want from them, the procedures tend to be acceptable. What would you and the other campaigners in the Dean area have regarded as an acceptable outcome?

Iain MacPhail: We could have gone with green wheelie bins and so on, but that is not important. I would have considered the procedure to have been a success if the council had taken on board what was said, had acknowledged that its processes were flawed and that the process was not properly structured and had been haphazard, and had said that it did not want to repeat that in future consultations. That was the main issue.

Mike Watson: Perhaps I am missing something. The petition says that 300 people turned up at a meeting. My impression was that they turned up at that meeting to say that they did not want the black bins, not "We don't mind the black bins but your procedures are flawed." People do not tend to turn up to meetings to say that. Did they not turn up to oppose the bins being placed there in the first place?

Iain MacPhail: I cannot speak for everyone but—

Mike Watson: Well, there were 300 people there, Mr MacPhail. They must have come to a view.

Iain MacPhail: Absolutely. With respect, you are going down a blind alley. People turned up to the meeting to talk about bins and containers, but the point is that they had to turn up because they had not been properly consulted. If they had been, we would have needed no meeting; we would have just had a proper consultation. Most people who signed the petition would accept that decisions have to be made, and we live with them. However, the council says that it consulted widely and for a longer period of time than it ever had before. We did not see any evidence of that and that is what got us quite irate. We were quite happy to accept the decision and we support containerisation but we cannot accept what the council says about it having done it as a result of a lengthy consultation process, because that is wrong.

Mike Watson: At the end of the petition I notice that you have listed several individuals whom you say you approached. I presume that Tom Ponton is a local councillor.

Iain MacPhail: That is right.

Mike Watson: If you are complaining about the process rather than the issue, what has come of those various representations?

Iain MacPhail: Delegations from Dean, Marchmont, Stockbridge and one other ward—I have forgotten the name—were invited to attend the city chambers for a meeting. That was encouraging and went above and beyond my expectations.

When we got there—and I am sure that the minutes will bear this out—I made all the constructive points that I have listed, and some others. Unfortunately, the council's conclusion was that the issue was about choosing whether to containerise or not. It had not listened to us, which is why I would say that that was not consultation either; it was just a sop and we came away thinking, "What was the point of that?"

We would rather not have had the meeting if the intention was to make us think that the council was to take our ideas on board, for it then to bin them. The meeting was haphazard; it was not planned. We turned up that day for no apparent reason. There was never going to be any change by that stage. That was not good consultation and it does not give me confidence in future consultation procedures by that body.

I am not asking the committee to have a go at the City of Edinburgh Council. I just hope to ensure that the Parliament can put something in place that will ensure that such haphazard consultation is not repeated by local authorities

throughout Scotland. I hope that councils have more effective, structured and planned consultation procedures.

John Scott: Are you saying that absolutely no cognisance was taken of the views expressed by the 300 people who turned up at the meeting? I would have thought that that in itself was pretty good and formed part of a relevant consultation.

Iain MacPhail: It is not bad, but it would have been good if the City of Edinburgh Council had organised the meeting. Instead, the local Liberal Democrat councillor organised it off his own bat. After the council sent out a letter saying that residents would get the bins in five weeks' time, people started to get in touch with the councillor to tell him that they had not heard anything about such a decision. Then he—not the council—organised the meeting. Indeed, the council did not even seek to use the meeting as a useful sounding board for public opinion. It was entirely up to the local community. In the end, the council rather reluctantly sent someone along who did not really take our views on board and offered us things such as the street-by-street consultation, which never materialised. I do not find that impressive.

John Scott: Do you have examples of better practice elsewhere, where you feel that the consultation process has been more thorough?

Iain MacPhail: I do not have any such examples as far as politics and waste containerisation are concerned. However, I have expectations that I think are shared by the whole community. I consult people in my day-to-day work and have to do it a darn sight better than the council has managed to do.

Today, we came up with a list of about 10 issues that will affect the community because of containerisation. The issues are not particularly complex and it would have been easy to find a process that homed in on the relevant matters. Once it was clear that we had all accepted containerisation as a policy per se, the question then should have been about how best to containerise waste instead of simply imposing a one-size-fits-all solution. The solution does not fit all because disabled people cannot reach the bins; frail people find them difficult to use; the bins take up parking space needlessly and so on. Those issues could easily have been overcome with a proper consultation process. We feel that we are on safe ground in making such a contention.

John Scott: I find it interesting that you say that the bins take up parking space needlessly. Where would you put them?

Iain MacPhail: We could have had different types of bins that fitted the type of housing in our area. For example, we could easily have had the

rolled-out green wheelie bins that they have in many other parts of the city and in the country. Those bins can be kept in the back green and do not take up parking space, apart from on collection days. On the other six days, they are not on the street or taking up parking space. Although we made those points at the hastily arranged public meeting and at the meeting in the council chambers, they were never really acknowledged or explored to any level.

Carolyn Leckie: You mentioned that objections were raised at the public meeting. What was the subsequent process by which you could submit proposals for alternatives to the black bins? Did you submit any such proposals? What, if any, forums were there for discussing such alternatives with the council? What response did you receive from the council on those alternatives? You say that green wheelie bins are an alternative; however, you have also pointed out that one of the problems with the black bins is the difficulty of access for elderly, frail and disabled people. I am not so sure that green wheelie bins are necessarily the solution for those people either.

Iain MacPhail: After the public meeting, we expected a street-by-street consultation to be carried out. Indeed, we were given a date by which the papers would be sent out. I hasten to say that I do not think that any minutes were taken of the public meeting, so it might be difficult to corroborate that statement. While we waited for the consultation to begin, we got in touch with various council members and the council's environmental department through e-mails and letters—we have submitted that written evidence with the petition—and contacted the local MSP and councillors to try to take the matter forward. We should bear in mind that, by that stage, the time scale for introducing the bins and the particular type of bin that was to be introduced had been decided, which meant that our room for manoeuvre was quite restricted.

We were given the chance to have the four delegations present at the city chambers. The points were made about concerns over recycling and certain members of the community finding the black bins difficult to use. A host of issues was addressed; however, we were not listened to and a conclusion was reached very quickly. A vote was taken and—surprise, surprise—the ruling administration said that, no, the decision was clearly about whether to have containerisation or not. They had not listened.

We tried to pursue the issue in every constructive way with the local council, the environmental and consumer services department and various political groups. However, we did not get anywhere because the decisions had already been made and the raw materials had probably

already been bought. There was no listening going on.

I agree with your point about the green wheelie bins. I do not think that they are the world's best thing; however, they are better for most people than the black bins. There are probably ways of finding specific methods of waste disposal for those people in the community who find wheelie bins difficult to use, including the frail and the elderly. Particularly small people find the large bins difficult to use. There must be ways to get round that, but such issues were never explored because, by that stage, it was simply too late.

We tried to go down every possible route before submitting a petition. Some people considered pursuing a class action through the courts. I did not support that idea personally, but they did and that is fine. However, in the end they decided against it for a number of reasons, of which finance was probably one. We came to the Public Petitions Committee because we had explored almost every other avenue that was open to us. To that end, we have included quite a large amount of paperwork with the petition.

As I say, the issue is not the eventual decision. We all appreciate the fact that a decision needed to be made, and black bins have been chosen—that is fine. I can live with the fact that green bins, which I would have preferred, were not chosen. I am able bodied and 6ft tall, so I can use the black bins quite well. What narks us is the process by which that decision was arrived at, which was flawed and haphazard. We do not feel that we were listened to at all.

11:00

Helen Eadie (Dunfermline East) (Lab): That aspect of the decision about containerisation has been controversial. Following the making of the decision, have you continued to pressurise the City of Edinburgh Council on the consultation and have there been any follow-up discussions with anyone in the council on the issue?

Iain MacPhail: We have not taken any further action since we submitted the petition.

Helen Eadie: But between the decision being made and submitting the petition did you have any other meetings with the City of Edinburgh Council to talk about the principal issue of consultation, as opposed to the issue of containerisation?

Iain MacPhail: No, we did not. However, the issue of consultation was a central theme of the meeting in the city chambers as well as of the public meeting that preceded it in the local area. Our displeasure was made keenly known and local councillors have taken the issue forward, as far as I am aware. A number of consultations are

presently on the go in Edinburgh and we have expressed our concern to local councillors that we want to ensure that the mistakes are not repeated. In the absence of a public acknowledgement that the process did not go well this time, we do not have confidence that the mistakes will not be repeated—we think that they might well be repeated.

Helen Eadie: Have you pursued the issue with the chief executive of the council through the formal complaints procedure of the City of Edinburgh Council?

Iain MacPhail: I, personally, have not, although that was made known as a form of action that we could take. I believe that some people have done that, although I could not supply you with their names as I do not know for sure. I have not done that. We have asked our councillors to take forward the issue. It was made pretty clear—directly to the full council meeting when we were invited to the city chambers—that we were unhappy with the consultation procedures. It is not as though we have shied away from making that point; we have made it strongly and more than once. However, I have not pursued the matter through the formal complaints procedure of the City of Edinburgh Council.

Helen Eadie: When you were invited to the city chambers, whom did you have that meeting with?

Iain MacPhail: The meeting was with the full council. As part of the council meeting, we were invited to make our representations known, so they should have been minuted. As far as I recall, all councillors were in attendance. There were four delegations from the areas in which the policy was being rolled out at that stage.

Helen Eadie: Do you accept that, as part of the process of trying to work its way towards a new policy, a council can determine a pilot scheme in a particular area? A pilot scheme was undertaken in Polwarth and Merchiston. Are you aware of the outcome of the survey results from those areas? The survey, which was undertaken by Queen Margaret University College, seems to have been very full.

Iain MacPhail: Indeed, but that is not the issue. If I was asked whether I like the black bins, I would say that I do. I am 6ft tall, so I have no difficulty with them whatever. If I have large amounts of waste, I could probably bin it all without anyone knowing—although perhaps I should not say that on the record. I actually find the black bins okay. What I do not like about them is the fact that there is a feeling that they were imposed when they need not have been.

The policy could have been rolled out better in a number of ways. We could have had the best containerisation possible for our area. Along with

most others, I do not think that the black bins are the best option. They leave certain issues outstanding, one of which is the recycling agenda. The bigger the bin, the less recycling goes on. We made that point clearly to the council, but we never received an adequate answer, if any answer at all, to that point.

Helen Eadie: Do you accept that the pilot evaluation, which was carried out as part of the consultation procedure, showed that 93 per cent of the survey respondents saw the new scheme as a major improvement? Perhaps that was part of how the council considered the issue.

Also, although I am not an Edinburgh MSP, from visiting people in Edinburgh regularly I know that the green bins would not be workable in many areas, as they could not be wheeled straight out from the back green. If people need to go down a flight of many steps and then up some more steps to get to the back green, the green bins would just not be feasible.

Iain MacPhail: They would have been feasible in our case. That is exactly the kind of thing that we hoped for. We had hoped to have a good two-way discussion about the pros and cons of different types of solutions and about which would be most appropriate for our area. In our case, that would have been the green bins, but you are right that they would not have been appropriate in many other areas. The council should have explored the options rather than adopting the one-size-fits-all approach.

Our one concern about the Queen Margaret University College survey was that respondents were offered, I think, £10 to respond. We thought that that might have influenced their decision to be extremely positive about the bins. We might be wrong in that respect, although I doubt it. Again, when we went to the city chambers, we made the point that we were not sure about the reliability of the statistics for that reason.

Either way, the point is not about whether the policy has been implemented well or badly elsewhere. The point is that, before a policy is rolled out, there should be proper consultation that is relevant to those people whom it will affect in the near future. That did not happen. I do not necessarily have a problem with the fact that other people like the bins or with how the policy was rolled out. If people like them, that is great and that is how it should be. However, when a new policy is being introduced in different areas, the people who will be directly affected need to be consulted. Part of that consultation might be to show that the proposal has worked out fine elsewhere, but the council did not even do that. There was no two-way consultation. There was no listening and no exchange of ideas.

The Convener: I want to get an exchange of ideas now on exactly what the committee should do with the petition. I want to move this forward.

Helen Eadie: Convener, thank you for allowing me to ask all those questions. Perhaps in the first instance we could write to City of Edinburgh Council to ask for its perspective on the claims that have been made against it this morning. We need to hear the council's view.

The Convener: What do members think?

Mike Watson: We should also ask the council whether its procedures are the same as those used by other local authorities, particularly urban local authorities.

Carolyn Leckie: I think that there are sufficient grounds to be concerned about the consultation. The petition is obviously from an articulate and well-mobilised community but I am concerned about communities that are not so articulate and well mobilised. If the consultation process was flawed, that raises questions in my mind about how consultations are conducted in other communities. I do not mean any offence by that. We should seek answers to those questions— from the council, in the first instance.

The Convener: Are members happy with the suggestion that we should write to City of Edinburgh Council to ask for information? Was Mike Watson's other suggestion that we write to the Convention of Scottish Local Authorities?

Mike Watson: I do not know to whom we would write. We could ask City of Edinburgh Council whether, as far as it is aware, its procedures are the same as other—

The Convener: Perhaps we could write to the Executive to ask for an overview of consultations.

Jackie Baillie: I think that it would be appropriate to start with Edinburgh because, like any local authority, it will benchmark its processes against others. Asking Edinburgh is probably sufficient.

The Convener: We will take it from there. Is that agreed?

Members indicated agreement.

European Union Constitutional Treaty (PE673)

The Convener: Our next petition is PE673, which is in the name of Mr Alex Orr. The petition calls on the Scottish Parliament to take the necessary steps to hold a consultative referendum of the Scottish people on the finalised European Union constitutional treaty, prior to ratification by the Westminster Parliament. Mr Orr is here to make a presentation to the committee. He is

joined by Phil Gallie MSP, who is present to support the petition.

Alex Orr: Good morning. Thank you very much for inviting me here today.

Petition PE673 is on another area of consultation. For many people, the proposed European Union constitutional treaty that is being debated at the intergovernmental conference spells an end to British sovereignty. Headlines signal the constitution as a blueprint for tyranny and the creation of a federal super-state but, for some, it is merely a tidying-up exercise.

The Prime Minister of Denmark, Anders Fogh Rasmussen, whose country intends to hold a referendum on the matter, said:

"The EU's constitution is so new and large a document that it would be right to hold a referendum on it."

The British Prime Minister has even said that the constitution would

"define the relationship between Britain and the rest of Europe and the prospects for the euro and would last for generations".

The purpose of my petition is to propose that the finalised constitution should be put to the Scottish people in a consultative referendum before ratification by Westminster. As it becomes clear that a United Kingdom referendum on the constitution will not take place, I believe that the Scottish Parliament and the Executive have a golden opportunity to address the democratic deficit that exists between the European Union and Scotland, to give the Union clearer democratic legitimacy and to make Scotland's views known to Westminster pre-ratification.

One of the purposes behind the drafting of the constitution by a convention was to bring the EU closer to its citizens. One way of re-engaging people with, and informing them about, the EU would be to involve them in a debate by giving them a real decision to make about the future of the EU—their Union. Do they favour the direction in which it is going, which involves the ceding of sovereignty in areas such as a common foreign and security policy, asylum, immigration and the extension of qualified majority voting in some areas?

Ultimately, the constitution is a founding document for the EU. It formulates a vision for Europe and, as with any constitution, that is something that should go to the people for approval. One cannot have a constitution without popular consent. Surely now—30 years after we joined—would be an appropriate moment to rehearse the benefits of membership of the EU with the Scottish people in a referendum. In fact, the first line of the draft constitution begins with the phrase:

"Reflecting the will of the citizens".

It would therefore be strange for politicians alone to take this country into a new constitutional arrangement that claims to reflect the will of the people without asking them first.

If we are also to accept that popular sovereignty lies with the people of Scotland—parliamentary sovereignty is an English concept—it is surely right to ask the people of Scotland whether they favour the further pooling or transfer of sovereignty that the treaty would bring, and the direction that the EU is taking, which I mentioned earlier.

The strong tradition of holding referendums in Scotland reflects the notion of popular sovereignty. In addition to the 1979 and 1997 referenda on the establishment of the Scottish Parliament, there was the 1994 Strathclyde water referendum. Since the current Government came to power, more than 30 referenda have been held on subjects such as the appointment of mayors and the establishment of this Parliament. It is surely time to ask the people of Scotland—or, failing that, the people of the UK—their opinion on the EU constitution, which is a founding document for a new, enlarged European Union. I urge us to trust the people on that.

Phil Gallie (South of Scotland) (Con): I congratulate Mr Orr on much of what he has said—I agree with probably around 80 per cent of it. However, perhaps we differ in that I think it futile to support a purely Scottish referendum and not to press the Executive to urge the UK Government to hold a wider UK referendum.

That said, everything that Mr Orr says about what the effects of the constitution would be is absolutely correct. We are talking about the total erosion of sovereignty and of powers—those of the UK and, in part, those of the Scottish Parliament. The constitution would directly affect economic and legal matters that are within the Scottish Parliament's powers. The committee should take what Mr Orr has said very much to heart and perhaps look back to the debate that was held in the Scottish Parliament just a few weeks ago in which the Executive was urged to make representations to the Westminster Parliament to hold a UK referendum on such an important issue.

11:15

Helen Eadie: I welcome Alex Orr, but wonder whether the petition is part of his bid to be a candidate for the European Parliament elections. I am sure that he will say that it is not, but I suspect that it is.

I ask Alex Orr to comment on the fact that the negotiations that have been taking place are

essentially about tidying up the European treaties that have been developed over the past 30-odd years. The new nations that want to join the European Union need a clear document to refer to, rather than the vast mountains of tomes that are the treaties. Anyone who has seen the treaties that have been developed over many years will understand why we need a concise and clear document. The matter is not about entering into new constitutional arrangements, but about providing clarity on existing treaties that have been agreed.

Alex Orr: There are two ways in which to answer such questions. I have the constitution document with me; it is not bedside reading, but I urge members to have a quick look at it. The exercise that we are discussing is not simply a tidying-up exercise—even the Prime Minister admitted that when he said that it is more important than issues such as Iraq and the euro. The document is a defining document—it will be a constitution for Europe. Extension of qualified majority voting is proposed in a substantial number of areas, including in respect of border controls, asylum, immigration and the development of a common foreign and security policy. We are talking about a founding document for a new, enlarged European Union. If the Danes, the Irish, the Spanish, the Portuguese and the people of the Netherlands and Luxembourg, for example, can hold referenda, it is time that we ask the UK Government—which has made it clear that it does not intend to hold a referendum—to do so, or hold a referendum on such an important document for the Scottish people, with whom sovereignty lies.

Helen Eadie: In 1974, I took part in the referendum campaign for a yes vote. Doing so was unpopular in my party, but I have never regretted it, as I am an international socialist as well as a Scottish socialist.

Carolyn Leckie: Are you sure?

Helen Eadie: Yes—I was long before you were around, Carolyn, and probably will still be when you are not around.

On the constitutional settlement, some issues that Alex Orr mentions—including issues relating to border controls—have been included in treaties, such as the Schengen agreement. He has not raised new issues apart from, perhaps, one that is part of the discussions and which relates to defence policy. However, it could be argued that that issue is not about a constitutional arrangement. I would like to hear what he has to say about that.

Alex Orr: A substantial extension of qualified majority voting has been proposed—I have a list of the areas that are being moved into. I am not

saying that I have difficulty with those areas, although Phil Gallie will probably say that he has difficulties with them.

For the first time, we are putting into one concise document—a founding document—a constitution for the European Union. We, as the people, must decide whether we are happy with that constitution and with the direction in which the EU is moving. We have not had this debate since 1975. We need to re-engage people with Europe and with what the EU means to them. If we do not, we will lose generations of people who know what the EU stands for and how they are involved in it. The draft constitution could provide a fantastic catalyst for such a debate. If politicians showed leadership on the issue, we could do away with euroscepticism, put the facts on the table and have an open, frank and honest exchange of views.

The Convener: I am conscious of the fact that this is a very political issue. We are not debating whether we support the draft EU constitution. We are here to discuss what we should do with the petition that Mr Orr has submitted. I would like members to concentrate on what we are here to discuss.

Ms White: I declare that I know Alex Orr because of a shared political interest. However, I will not be political when dealing with the petition.

You are probably aware that there is much cross-party support for your idea. Phil Gallie may want Westminster to give us a referendum, but we know that it will not do so. As you know, Nicola Sturgeon is proposing to lodge a member's bill on the issue. On 9 September, Andy Kerr intimated that he might wish to engage the Scottish people in some form of dialogue on the constitution.

I want to ask you about the petition and your reasons for submitting it, some of which you have stated. You mentioned that we have not had a referendum on Europe since we entered the EU. Do you believe that engaging the people in a referendum on the issue for the first time in 30 years would encourage them to find out more about Europe and the EU? Would it encourage them to participate more in the electoral process? Obviously, you believe that people must have a say in the new constitution. However, would holding a referendum be beneficial to the Scottish people in other ways?

Alex Orr: Absolutely. If we want the Parliament to be open, transparent and accessible, we must trust the people on certain fundamental issues. I judge this to be an issue of fundamental importance to the sovereignty of the nation state. As Sandra White says, a referendum would also re-engage people in the political process. It would inform them about the European Union and what it stands for.

As I have already said, it would allow us to have an open, honest and frank debate about the European Union and what it means, instead of the constant Euroscepticism of much of the media, which brushes the issues under the carpet and prevents us from having the debate that we, as a nation, need to have. If we do not have it, the polls will continue to show that we have the lowest level of knowledge and awareness of the European Union and a continual stream of scare stories will appear about issues ranging from the wearing of kilts to the requirement to have car headlights on during the day.

Jackie Baillie: I want to ask a number of specific questions. First, I understand that all previous EU treaties have been subject to the constitutional process of a parliamentary vote at Westminster. Is that correct?

Alex Orr: Yes.

Jackie Baillie: Secondly, the UK's approach to the treaty is outlined in the white paper. Mindful of what the convener has said, I will try not to stray too much from the petition. However, does the white paper contain anything from which you dissent?

Alex Orr: The white paper is hazy on a number of issues. For example, it makes no mention of exclusive competence over fisheries, control of which will be passed to Brussels lock, stock and barrel under the common fisheries policy. Like a number of members of parties that are represented in the Scottish Parliament, I have serious concerns about that issue. There are also problems with the energy section of the draft constitution. I have serious concerns about the future of the Scottish energy sector and the development of the oil industry in Scotland. The white paper is also vague on issues relating to taxation, defence and social security. It is a very vague document. I am sure that Jackie Baillie has read it, but I invite her to do so again. There is a very large framework within which one can opt to exercise a veto or to move to qualified majority voting.

Jackie Baillie: I would like to pursue the issue, but I am conscious of the convener's injunction. You talk about increased democratic legitimacy and reconnecting the European Parliament with the people by making it a bit more interesting. Are not the European Parliament elections the place to discuss the constitution?

Alex Orr: Although the European parliamentary elections are an opportunity, they are not a debate about the constitution, but a debate about which party the public wants to represent them in Brussels. We must try to engage people in a broader debate about the European Union, which is where the constitution comes in. A referendum

would not simply involve people voting for a parliamentary party out of tradition, without knowing fully what they are voting for, as happens at the European parliamentary elections. We should engage the public in a debate on a single document with which they can identify and which they can either commit to or vote against.

Carolyn Leckie: I am absolutely astonished by some members' comments and by their refusal to acknowledge that fundamental democratic issues are at stake in the discussion of the European constitution. I confess that I have not read the draft constitution, but I am aware of some of the issues that are at stake. I wonder why there is a fear of the people's verdict. I do not have a problem with the fact that Alex Orr will be a candidate in the European Parliament elections; that should not be a barrier to Mr Orr's presenting one, given that MSPs can present petitions.

A suggested alternative to a Scottish consultative referendum is to apply pressure on the UK Government to hold a UK-wide referendum. What would be the political difference between a referendum in Scotland and a UK-wide referendum? Do we need to separate out consultation in Scotland? Strong national interests are obviously involved. Can you envisage a scenario in which a consultative referendum in Scotland comes out as opposed to the constitution, whereas a UK-wide referendum comes out in favour of it? Is it necessary to explore that potential difference?

Alex Orr: You raise a number of issues. Scotland has a strong tradition of referenda, because of the belief—which dates back to the declaration of Arbroath—that sovereignty lies with the people. Parliamentary sovereignty is really an English concept. As the constitution would clearly involve ceding or pooling sovereignty, the issue must be put to the Scottish people.

Representations were made to the UK Government before the production of the white paper, but the white paper makes no mention of the concerns that many Scottish parliamentarians have on issues such as exclusive competence over fisheries, which is a topical issue. I believe that the UK Government has not raised that issue at the intergovernmental conference. Because of the oil fields, there is a particular emphasis on energy matters in Scotland, but, again, such matters are not raised in the white paper, which is a vague document.

Specific Scottish issues must be identified and explored. I feel that the way in which to do that is to re-engage people through a consultative referendum to get their views. That referendum would not be binding; it would simply give to Westminster the Scottish people's views on the constitution. However, if the vote were

overwhelmingly against the constitution, that would have resonance because a part of the UK would have expressed a strong opinion on the matter.

The UK Government has made it clear that the decision will be taken in the UK not by a referendum, but by the UK Parliament. We have a golden opportunity to engage people on the issue through a referendum of the Scottish people.

11:30

Mike Watson: Like Sandra White, I know Alex Orr although, unlike Sandra, not through a political contact.

I am a bit puzzled by the proposal. Alex seems to overestimate the effect that such a vote in Scotland would have on those who make the decisions at Westminster or in Whitehall. I think that, if such a referendum were held, it would be ignored by the UK Government. I am certain that that would be announced even before it took place, irrespective of the result. I do not, therefore, see that a referendum will achieve anything.

I know that Alex Orr is a pro-European, unlike Phil Gallie. By and large, those who advocate a referendum on this issue or on the issue of the euro—although I understand that Alex is not in that camp—want a decision on whether we should stay in the European Union. There is a bit of dishonesty in the position of a lot of people who call for a referendum. Alex says that there is a tradition of referendums in Scotland but, although I have passed the golden age of 50, I can remember only two. One was the referendum that established the Scottish Parliament; the other was the Strathclyde water referendum in which I got to participate—although others did not—because I lived in Strathclyde. I do not, therefore, understand how Alex can claim that there is a tradition of referendums.

We have not had a tradition of referendums in this country since we joined the European Union. None of the major states is holding referendums, although some of the smaller states and accession states are doing so. I wonder why you feel that a referendum would be especially appropriate here, other than perhaps to cause a divide between the views of people in Scotland and the views of those in other parts of the UK, which would not serve the purposes of anyone except those who are in favour of having a separate Scotland.

Alex Orr: You ask two questions. I would count nations such as Spain and the Netherlands as being fairly major European nations. It appears that a considerable number of the European nations—in fact, the vast majority—will hold referenda. It is proposed that France will hold one, and I would consider France a fairly major European nation.

Leadership is required on the issue of a referendum. In 1975, six months before the referendum there was a 2:1 majority in favour of withdrawal from the European Community; however, by the time that the referendum came, there was a 2:1 majority in favour of remaining in the European Community. The issue requires leadership and needs politicians to go out and put the arguments for our being in the EC or our withdrawing from the EC honestly, openly and transparently. That is an issue of leadership.

Of course, it is open to Westminster to disregard a referendum of the Scottish people. The UK Parliament is the parliament of the member state, and it is UK parliamentary sovereignty that will, ultimately, decide the future of the treaty. Nevertheless, a referendum could be undertaken as a consultative exercise for Westminster to take or leave. It would be simply another method of consultation, the results of which Westminster could act on or disregard, as it wanted.

Mike Watson: Carolyn Leckie talked about those of us who are not in favour of a referendum seeming to have a fear of the view of the population. I make it clear that that is not the case.

Alex Orr mentioned the referendum in 1975. Helen Eadie said that she was very pro-Europe in 1975, but I was anti-Europe in that referendum. My view has changed and I am now pro-Europe. I remember that the media played a huge part in that campaign in influencing the figures that you mentioned. However, it seems that the coin has now flipped. Could not the media—certainly the right-wing media—whip up a campaign that would get us into all sorts of political issues around the basic question of whether we should be in or out of Europe? I know that, if the question were decided on that basis, that would not meet with your personal views on Europe. How would that serve us? It would be divisive. For that reason, I am not in favour of such a referendum or of a referendum on the euro.

Alex Orr: Sovereignty does not lie with the media in this country; it lies with—

Mike Watson: Well, we ignore the media at our peril.

Alex Orr: We cannot say that we do not want a referendum because the media are against the treaty.

Mike Watson: But they distort the issue.

Alex Orr: If we had taken that view on a number of things—for example, if the media had been against the Scottish Parliament—

The Convener: Can we stick to the purpose of the petition, please?

Alex Orr: We have to trust the people and the politicians. The politicians have to go out and put the case for a referendum. The fact that we are a

wee bit feart of the media is no argument for our abrogating our responsibility in that department.

Mike Watson: May I just clarify something? I am not going to ask another question.

It is not a question of being feart of the media; it is a question of being afraid of the arguments not being allowed to emerge in their own right, but being swamped by the whole question of whether we should be in or out of Europe.

The Convener: We have to start to think about what we should do with the petition. People will have their views on whether referenda are good or not, but we should start to look at where we go from here. Linda Fabiani has not commented yet and Phil Gallie, as a supporter of the petition, wanted to make a comment. After that, I want to hear from members about what we should do with the petition.

Linda Fabiani: I have a comment rather than a question. It strikes me that we do not have a written constitution in the UK, and I imagine that, once Scotland is independent, we will have a written constitution and a bill of rights that will be agreed by the people. I am interested in whether members feel that the UK or Scotland should have a constitution that cannot be voted on by the people. Why should we have a constitution, some elements of which directly impact on aspects of Scottish life, on which people are not given the right at least to express an opinion through a referendum?

The Convener: Thank you. Phil Gallie is next. After that, I want to get suggestions about what we should do with the petition.

Phil Gallie: Before we decide the outcome of the petition, I remind the committee of a couple of things. First, Andy Kerr, a Scottish Executive minister, gave a commitment to finding a way of consulting the people of Scotland to sound out opinions on the matter. That is an important argument with respect to the point that Alex Orr made. The second point that I would like members to take aboard is that it is the responsibility of every politician to try to encourage participation in elections. At the previous European elections, there was a 25 per cent turnout in Scotland. I suggest that a referendum on the issue could well awaken interest once again and have a positive result with respect to increasing electoral responsibility.

I emphasise that my argument is not about whether we are in or out of Europe. The arguments based on what we have done before are questionable. Looking back, I think that it was great folly that the Conservative Government did not go for a referendum on the Single European Act and did not try to make people understand what was in that act. Had it done so, perhaps the

outcome would have been different from a situation in which members of all the political parties appear to have signed on blindly.

I return to my point. If the committee decides not to go down the route of a Scottish referendum, I ask it to make further representation through Jack McConnell to the UK Government for pressure for a UK referendum on this extremely important issue.

The Convener: I see that Carolyn Leckie has a comment to make, but I would like to get suggestions about what we should do.

Carolyn Leckie: I will make suggestions as to what we should do, but my astonishment has increased since Mike Watson's acknowledgment that Westminster and Whitehall would ignore an expression of opinion in Scotland and that there is therefore no point in having a referendum. That fits with my political analysis, but it is astonishing that a Labour MSP is willing to accept that, if the Scottish people express an opinion against the European constitution, Whitehall will ignore it. That is also my belief, but it is quite remarkable that that has been acknowledged.

The idea that we cannot trust the outcomes of a referendum because of media influence must surely apply to the Labour Party getting in at the most recent election.

Mike Watson: That was not a referendum.

Carolyn Leckie: It is astonishing and paternalistic to say, "Don't ask the people because they're unduly influenced by the media. We'll just not bother asking them." That is so anti-democratic that it beggars belief.

We should move forward. It has been suggested that we ask Andy Kerr what he intends to do following his comments. I do not think that we should stop at that, but I am not exactly sure what the process would be. Would it be the European and External Relations Committee that would consider the matter and would it have the apparatus to be able to enact the petition in the event of the Executive not supporting a consultative referendum in Scotland? I need to understand that a bit better, but it is my view that the petition would certainly have to go to that committee in the absence of a positive response from the Executive.

The Convener: I did not follow the debate in that committee but I can only assume—for the minister to have made the comments that he did—that that committee must have discussed the issue with him. The recommendation is that we ask the Scottish Executive for its views. Andy Kerr told the European and External Relations Committee that he wanted to engage in some form of dialogue; perhaps we could ask him to expand on that and tell us what he feels.

Helen Eadie: For the record, I have a very friendly relationship with Alex Orr. We work very closely together in the European Movement. As Mike Watson said, what distinguishes Alex Orr, Mike Watson and me from Phil Gallie is that we are trying to make progress, become more involved with Europe, and engage with European people.

I agree that we should write to the Minister for Finance and Public Services. However, it was wrong of Alex Orr to suggest that there had been no engagement on a number of issues at Commission level or among MEPs. Gisela Stuart came to Scotland and spoke at a meeting. I do not know whether Alex was there, but she went into detail on all the specific working groups that had been set up. She chaired one of the working groups—on local government. Politicians from other countries chaired the other working groups and they addressed many of the issues.

Alex Orr talked about a founding document. It is not a founding—

The Convener: We do not really need a debate on points that have been raised. We need to come to a conclusion.

Helen Eadie: Okay.

Ms White: I agree with your decision, convener, and we should take it on board. It is not right that MSPs are allowed to attack verbally the comments of a petitioner, whoever they are. We should not be allowed to do that.

I echo what Carolyn Leckie said about Mike Watson's comments. It is indicative of the views of Mike and perhaps the Labour Party that he should say that the Scottish people mean nothing.

The Convener: We do not need any more political comments.

Ms White: I am sorry, but, convener—

The Convener: Please, I am trying not—

Ms White: I know, but you allowed Mike Watson to say, basically, that we could not trust the Scottish people and you never came in on that.

The Convener: No, I did not. I allowed him to make some personal comments but—

Ms White: I think that you have to look at that. If Labour politicians are allowed to get away with saying, basically, that the Scottish people have no sovereignty—

The Convener: Sandra, please.

Ms White: We are allowed to stick up for the Scottish people and—

The Convener: Sandra—

Ms White: I would ask you to take that on board.

The Convener: Sandra, you asked me to take on board the point about not scoring political points, but you proceeded to score political points.

Ms White: I am sorry, but you should have said the same to your Labour colleague at the beginning.

The Convener: Excuse me, but I do not think that anyone can ask me to take action against those who make political comments and then go on to make political comments themselves. To get some fairness in this, I ask members to agree that we should ask Andy Kerr to expand on his comments. We will then be able to consider his response and consider the petition further. Do members agree?

Members indicated agreement.

Linda Fabiani: We should ask him for his views on a consultative referendum as well.

The Convener: Yes—I will take one more comment from the petitioner before we wrap this up.

Alex Orr: I wrote to Jack McConnell and received a letter in response that I am quite happy to submit to the committee. The last sentences of the letter are:

“The Executive will continue to work to represent Scottish interests throughout the Intergovernmental Conference on the Draft Treaty which is currently underway. Following the conclusion of the IGC, the Treaty will be ratified according to UK procedures.”

I read that out simply to clarify the Scottish Executive's position.

The Convener: The minister responsible has made his comments and we want to know whether he will expand on them. That has been agreed by the committee. I thank Alex Orr for his attendance this morning.

Wind Farms (Planning and Environmental Procedures) (PE664)

The Convener: Christine Grahame MSP is here and we are in the part of the meeting where we take evidence from petitioners so, if members agree, we will go to petition PE664, on proposed wind farm developments. The petition was submitted by Christine Grahame on behalf of constituents in her area who are concerned about proposals to locate a wind farm at Minch moor, which they claim will involve the siting of 14 100m-high turbines close to the village of Walkerburn and the southern upland way.

The petitioners call on the Scottish Parliament to investigate the planning and environmental procedures for proposed wind farm developments in Scotland and the impact of such developments on valued areas of internationally recognised

recreational countryside. The petitioner is aware that the committee is unable to become involved in local planning matters. Members will recall that the committee recently agreed formally to refer PE493 and PE559, which raise similar issues about wind farms, to the Enterprise and Culture Committee. That committee has agreed to consider them as part of its future inquiry into renewable energy in Scotland.

A members' business debate, in the name of Murdo Fraser, on planning issues relating to the siting of wind farms, was held in Parliament as recently as 6 November.

Would Christine Grahame like to comment?

11:45

Christine Grahame (South of Scotland) (SNP): It is very kind of you to allow me to comment. I will be brief, after such an exciting debate.

The members' business debate on 6 November was interesting. I will highlight a couple of points that were raised, as I do not think that committee members have the *Official Report* of the debate in front of them.

The main problem for the people in Walkerburn and for people elsewhere in Scotland who have raised similar petitions is that there does not appear to be a national framework for wind farms. We are having ribbon development. My understanding is that if developers go below 50MW—I may have got the energy level wrong—they do not have to come to the Scottish Executive with the plans. In his response to the debate, the Deputy Minister for Enterprise and Lifelong Learning stated:

"Central to many speeches that were critical of the existing planning framework was the argument that central Government should lay down a strategic framework for where wind farm development should take place. In fact, existing planning policy allows councils to do precisely that."—[*Official Report*, 6 November 2003; c 3123.]

Therein lies the rub. It is the councils that are doing it. In the debate the minister gave examples of different practices in different councils throughout Scotland. That is what the petitioners were aiming their petition at. Wind farm development is becoming very expansive. I understand that there are 33 applications in the Borders; development is focused on that area because of the accessibility to the national grid. Many such developments are going on, not only in the Borders, but there does not seem to be a level playing field throughout Scotland. The minister did not address that issue in his speech in the debate. I draw that debate to members' attention, as I do not think that the *Official Report* of it is included in the papers that they will have before them when they consider their recommendation.

The Convener: Thank you. I point out that all the points that Christine Grahame has made were the basis of the petitions that came forward previously. We referred all those petitions to the Enterprise and Culture Committee for its consideration as part of its forthcoming inquiry into renewable energy in Scotland. I do not want to prevent any members who have anything to say on the petition from speaking, but I am trying to make up some time as we have had extended debates on other petitions. Do members accept the recommendation that the petition should go, as did the other two petitions on the matter, to the Enterprise and Culture Committee for its consideration?

Members indicated agreement.

Christine Grahame: I add that the committee should draw attention to the minister's response, which did not deal with the issue at the heart of the matter—that there should be a national strategic framework rather than having councils set the strategy for their area. That is the main point.

The Convener: One of the previous petitions raised that specific point.

Christine Grahame: Okay.

The Convener: All the points have been addressed by the other petitions.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): The argument that Christine Grahame is putting forward could be replicated throughout the country. The issue is exercising the minds of representatives of local authorities throughout the land.

Christine Grahame argues in the petition that the wind farm would be detrimental to an environmentally sensitive area. The same argument could put forward throughout most of Scotland. I am sure that the planning process would take into account the perceived impact that the proposed wind farms might have on wildlife in the area. There is not a great problem. The Executive and the Enterprise and Culture Committee are giving the matter due consideration and I am sure that a solution that is satisfactory to all will be arrived at.

The Convener: We will wait and see what the Enterprise and Culture Committee does on the issue. We will send the petition to that committee as it is examining the issue anyway and the petition adds to the petitions that have previously come before the committee.

Children with Learning Difficulties (Support and Information) (PE663)

The Convener: Petition PE663 is on support services for parents of children with learning or

behavioural problems, and is in the name of James A Mackie, on behalf of Overload Network. The petitioners call on the Parliament to take the necessary steps to ensure that the need for support and information services for parents of children with learning difficulties and behavioural problems is recognised by the Executive.

The petition was submitted on behalf of Overload Network, which is a UK charity that disseminates information on prescribed drugs and non-drug treatments to parents who have children with learning difficulties and/or behavioural problems. The petitioners are concerned that there has been a marked increase in the number of parents who are contacting the organisation to report that children as young as two years of age are being prescribed powerful psychotropic drugs, often to treat conditions for which there is no definitive medical or biological test.

The petitioners are particularly concerned that parents are being informed neither of the serious side effects of such drugs, nor of the availability of safe alternatives, thus undermining the principles of informed choice and consent. They therefore request that the Parliament urge the Executive to ensure that accurate information on any potential risk from drugs and on non-pharmaceutical alternatives is available to parents of children with learning difficulties and behavioural problems, and that administrative support is available to groups that seek to provide such information.

The Executive appears to have recognised that there is a gap in information services for people with learning difficulties, and is funding the Scottish accessible information forum to co-ordinate a national strategy to ensure that all information is accessible to people with disabilities and their carers. However, the current stage of that work is unclear, and it is unclear how it might link with other information services that are provided by the Scottish Consortium for Learning Disability, Update and Enquire.

Members will recall that the committee has considered a number of petitions submitted by Mr Mackie on related topics. I welcome members' comments.

Linda Fabiani: Your last comment dictates what we should do, which is to link this petition with the other ones that have been submitted, and ask the Executive for a response. We should also ask the Executive to be fairly specific about the issue, rather than widen it out—as we have done in the past—to children with disabilities, carers and so on. I would like specific responses to the issues that Overload Network has raised. When we receive a response, we can consider it in the round.

The Convener: Do other members have any comments or is that agreed?

Members indicated agreement.

The Convener: Petition PE665, in the name of George Lyon, has been withdrawn.

Dangerous Dogs (PE666)

The Convener: We move to petition PE666—I do not want people to read too much about devil dogs into that. How sad it is that I noticed that.

Linda Fabiani: It says something about you.

The Convener: This petition is on dangerous drugs—

Linda Fabiani: Dogs.

The Convener: Sorry. I am getting confused. It is in the name of Mr Frank Harvey, and calls on the Scottish Parliament to take the necessary steps to protect people in Scotland from being attacked and savaged by dangerous dogs. The petitioner is concerned that despite considerable discussion on the topic among politicians, effective action to prevent the increasing number of attacks on the public by dangerous dogs has yet to be taken. The petitioner believes that all large dogs, particularly those that are bred for fighting or guard duties, should be muzzled at all times to protect the public from attack. He also argues that dog owners who fail to adhere to that should be prosecuted and have their dogs destroyed immediately after an attack.

The petitioner previously submitted two other petitions on this topic—PE59 and PE219. The Executive's responses to PE59 in September 2001 and to PE219 in November 2000 explained that the Dangerous Dogs Act 1991 makes it an offence for anyone in charge of a dog to allow it to be dangerously out of control in a public place. The Executive also confirmed that it considers the current legislation to be effective, and that it has no plans to introduce any new or amending legislation. Do members have any comments?

Jackie Baillie: The Executive's view has been clarified absolutely in response to the two previous petitions. I do not think that there is anything to be achieved by taking the matter further. Therefore, I recommend that we do not take the petition anywhere, and that we consider the matter concluded.

The Convener: There appear to be no additional views. Is that agreed?

Members indicated agreement.

Current Petitions

Palestine (PE536)

11:55

The Convener: I ask the committee's indulgence. Petition PE536, on the Palestinian legislature and institutions, is down as the third petition that we are to consider under the current petitions agenda item. However, as a delegation from the Palestinian Legislative Council is with us today and I know that it will have a busy schedule at the Scottish Parliament, I seek the committee's agreement to move forward our consideration of the petition, which will let the members of the Legislative Council hear our discussion and then get on with their busy agenda.

Members indicated agreement.

The Convener: PE536 is from Hugh Humphries on behalf of Scottish Friends of Palestine, on the Palestinian legislature and institutions. The petitioner calls on the Scottish Parliament to offer advice and training to those involved in running the Palestinian legislature and institutions, part of which would be on communicating the proceedings of the Palestinian Legislative Council to the Palestinian nation. The petition is prompted by the petitioner's belief that the Scottish Parliament is in an ideal position to advise and assist the Palestinian National Authority and the Palestinian Legislative Council with the implementation of democratic processes and institutions.

On 8 October 2002, the previous Public Petitions Committee agreed to write to the Scottish Parliamentary Corporate Body, the cross-party group in the Scottish Parliament on Palestine, the head of the Palestinian mission in the United Kingdom, the Westminster Foundation for Democracy and the Scottish Trades Union Congress, seeking their respective views on the issues raised in the petition. The clerks have had some difficulty in obtaining certain responses, despite issuing several reminders. However, all responses have now been received.

The previous SPCB was of the view that it would be possible for the parliamentary services to offer advice and share experiences with those involved in running the Palestinian legislature. It suggested that that could be provided in written or electronic form, or could take the form of short visits to the Parliament or work shadowing. However, it made clear that no direct funding could be provided to support any programme of assistance. The aims of the petition are fully supported by all the other groups and organisations that were consulted.

Mike Watson: I declare an interest as a founder

member of the cross-party group in the Scottish Parliament on Palestine.

Linda Fabiani: And me.

Jackie Baillie: Me too.

Mike Watson: The experiences that we have had with establishing the various aspects of the Scottish Parliament's committee structure put us in a particularly strong position to offer support and advice to the Palestinian Legislative Council. There are strong links between Scotland and Palestine, which are effectively outlined in the letter that we have received from the STUC, and we should further strengthen relations. I believe that the SPCB ought to be asked to investigate what sort of support we could realistically provide. There will be financial restrictions on that, but I think that we should do whatever we can to take the suggestion forward.

Linda Fabiani: I concur completely.

Ms White: Considering the fact that the previous corporate body was sympathetic to the petition, I go along with Mike Watson's suggestion that we refer the proposals to the corporate body for further discussion. Basically, we would be asking the corporate body to tell us how it can take the proposals further so that we may be helpful to the Palestinian people and Government.

Jackie Baillie: I entirely agree with that. It would be enormously helpful also to find out what the Palestinians would want of us, rather than simply suggesting how we could help. It would be useful to have such a dialogue. I welcome the positive tone taken by the corporate body and all the responses that we have received to date.

The Convener: On what Sandra White said, I wonder whether we really need to get another referral back from the SPCB. If we ask the SPCB to take the matter forward, do we need it to write back to us to say whether it is going to do that?

Members indicated disagreement.

The Convener: If we formally refer the matter to the SPCB, asking it to take it forward, we will have acted on the petition. Is that okay?

Ms White: That would be fine.

Carolyn Leckie: I concur with what has been suggested, and I welcome the delegation. Some of the things requested by the petition have been acted on already and the programme that we are undertaking reflects that. That is good and we should welcome it.

I would like the SPCB to explore every possible means of assistance and acknowledge that it is very difficult for the Palestinian Legislative Council to arrange and fund visits. I would like the SPCB

not to rule out certain methods of assistance and to explore all avenues.

John Scott: As a member of the SPCB, I look forward to receiving the petition in due course. I agree with the sentiments expressed in the past by David Steel—and Mike Watson—that we should give all the help that we can to emerging democracies.

12:00

The Convener: There seems to be broad agreement and strong support for the petition, so we can proceed in the way that Mike Watson has suggested. Are we agreed?

Members indicated agreement.

The Convener: I point out that after the issue was discussed in public, a letter of objection was received and, as a matter of course, we have to refer that to the SPCB. We do not have to go into great detail on the letter in case it causes any offence, but we should send it with the petition. Is that okay?

Members indicated agreement.

The Convener: I thank the members of the Palestinian Legislative Council who are with us today for their attendance.

State Hospital (PE440)

The Convener: We return to the order of our published agenda. Petition PE440 is on the provision of care and treatment for patients released from the state hospital at Carstairs. The petition, which is in the name of Mr and Mrs Dave Crichton, calls on the Parliament to investigate the problems that are faced by patients who are ready to be released or transferred from the hospital.

The petition was prompted by the case of the petitioners' son, Darren Crichton. At the time of the petition's submission, Darren had been unable to leave Carstairs because of a lack of suitable beds and staff at Murray royal hospital in Tayside, despite having been assessed as ready to leave for more than two and a half years. The petitioners indicated that this situation is replicated throughout Scotland.

The Public Petitions Committee in the previous session considered a response from the Executive in September 2002, which gave details of the steps that were then being taken to address the shortage of available beds to allow patients from the state hospital to be transferred to a local hospital. Comments from the petitioners were considered in February 2003 and they expressed the view that they would like a firm timetable to be applied to the Executive's proposals, and a firm commitment to the wider funding of mental health

services. It was agreed that the Executive should be asked to respond to those points.

The Executive has now provided information on the progress that is being made in addressing the issue through the opening of a new local forensic services facility in Edinburgh, and the continuing process of identification of suitable locations in other areas of Scotland. The Executive has also indicated that it will continue to work with NHS boards to implement the mentally disordered offenders strategy and that it will support improved care and treatment through the establishment of a managed care network throughout Scotland.

Additionally, the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a right of appeal against detention in conditions of excessive security. That provision will come into effect in the summer of 2006 at the latest.

Do members have comments or any recommendations on how we should act?

Carolyn Leckie: I am concerned about the timetable. It is suggested that the committee should accept that enough is being done. I would rather keep the situation under review and perhaps come back to it, because there might be issues that we are all concerned about. I am concerned that the timetable for setting up the forensic or medium-secure units might be stretched. We should keep an eye on that.

Ms White: I am concerned that the petition was submitted in 2001 and discussed in 2002 and that the Executive did not respond to a submission that was made in January until September. We are now in 2003.

Given what is happening with the consultation process regarding the secure units, we cannot be specific and say that they will open on a certain date. We do not have a time scale for the managed care network, which is described as an early priority. I worry that if we say that no further action will be taken on the petition, the matter will languish again, perhaps for a couple of years. I would like to keep an eye on it—perhaps we should write to the Executive to ask whether it has a time scale for the specifics and to say that we are concerned about the secure units and the consultation process. We should not just say that we are satisfied with the answer that we have had.

The Convener: I do not think that we have to write to the Executive to ask it to keep us updated, because the clerks can monitor the progress on the decisions. That is unless you want a specific timetable and a clear response from the Executive, which the clerks can then monitor to see whether it is achieved.

Ms White: I would like to see a time scale for the managed care network, under which a national

plan will be produced to oversee the situation. I would like to know how long it is presumed that that will take, because no date has been given, not even a year.

John Scott: I appreciate what Sandra White says, but I wonder whether we should ask the petitioners if they are content with the Executive's response before we take further action.

The Convener: We can do that. Is that a reasonable suggestion?

John Scott: There is a list of actions that the Executive is taking.

The Convener: It might be worth waiting to see whether the petitioners think that the action that they expected has been taken, but the on-going process will require the clerks to keep an eye on the situation.

Apparently, the petitioners were asked whether they wanted a timetable and they said that they would like one. That has already been asked for, so the clerks can monitor whether it has been produced. However, there would be no harm in asking the petitioners—

Carolyn Leckie: We should come back to the petition and review progress on the current consultations in case the timetable slips. There is concern that if that happens, the situation that led to the petition being submitted might still exist. The type of patient that the petition refers to might still be languishing in Carstairs and that would be a matter for the Parliament.

The Convener: There is no harm in writing to the Executive and the petitioners to say where we are with the matter and to ask whether we should continue to review it. We should get the petitioners' views on how progress is being made, because they are directly affected. Are members happy for us to write to the petitioner and the Executive?

Members indicated agreement.

Miscarriages of Justice (Aftercare) (PE477)

The Convener: The next current petition is PE477, which concerns aftercare programmes for those who suffer miscarriages of justice. Additional information on the petition has been passed to members.

The petition is in the name of John McManus, on behalf of the Miscarriages of Justice Organisation. The petitioners call on the Parliament

“to urge the Scottish Executive to provide assistance in setting up an aftercare programme in the form of a half way home to help people who have been wrongfully incarcerated and have served long terms of imprisonment or whose conviction has been annulled at the appeal court”.

They are concerned about the long-term effects of periods of incarceration in prison on people who

have been wrongly convicted of crimes, and about the absence of aftercare provision when such people's convictions are quashed by appeal.

We considered the response from the petitioners on 3 September, when we noted that their application for funding for the development of MOJO Scotland had been turned down by the Executive. We agreed to write to the Executive to seek clarification of the level of support that is provided on release, specifically to those who have suffered a miscarriage of justice. A response has now been received, together with further letters from the petitioners.

It is clear that the petitioners and the Executive are at cross-purposes on the issue. The Executive considers that the services that are available to ex-prisoners, which include the enhanced throughcare system that is about to come on stream, are also available to those who have suffered a miscarriage of justice and that, therefore, those people do not require targeted support. That argument hinges on the fact that those services are designed to address a wide range of difficulties that ex-prisoners and their families may experience, regardless of the circumstances of their release.

The Executive states that a report on the joint Home Office and Citizens Advice pilot to assist ex-prisoners who are released on successful appeal against conviction in England and Wales will be published by the end of the year. A copy of that report will be passed to the committee as soon as it is available.

The petitioners are concerned that the committee agreed to ask the Executive for clarification of the level of service that is provided; they argue that they have made it clear that no services, help and support are available. They claim that prisoners who are released on appeal are not given counselling before release, because they have not been on probation programmes. They state that the type of counselling that they propose would be specialised and tailored to the needs of those who have suffered wrongful incarceration.

The petitioners are concerned that those who suffer a miscarriage of justice appear to be classified as ex-offenders. They remind members that a member of the committee in the previous session expressed concern about the justice system and prisons providing aftercare for individuals whom that system had failed. The petitioners also question the adequacy of the counselling that is available as part of the Home Office and Citizens Advice pilot project.

Do members have comments?

Linda Fabiani: The Executive's response disappointed me. It gave only the facts, so I am

disappointed that no services are provided specifically for people who suffer miscarriages of justice and that such people are dealt with in the same way as ex-offenders are. That is sad.

I would like to see the results of the pilot and to go a wee bit further. I would be happy for us to pass the petition to one of the justice committees, along with the report of the pilot when it is issued, and to ask a committee to investigate the matter.

The Convener: I will take that as a recommendation.

Mike Watson: I endorse the recommendation. I, too, am disappointed with the Executive's response. I would not say that it is flippant, because it runs to two and a half pages, but the Executive has failed to grasp the seriousness of the issue. Sharon Grant's letter says:

"As the enhanced throughcare service being developed in Scotland will be available to those suffering from a miscarriage of justice we do not consider that they require specific and targeted support."

I am astonished by that.

A few minutes ago, we were handed a revealing article from the *Toronto Star* that contains comments from Dr Adrian Grounds, who is a forensic psychiatrist from the University of Cambridge. He makes a couple of points that are obvious when they are read, but perhaps we did not think of them.

Most prisoners probably proclaim their innocence, but those who were wrongly convicted are telling the truth. They carry that burden all the time that they are in jail, which puts them in a different frame of mind from people who say, "Okay, I did it, although I may claim that I didn't because it might make me or my family feel better." Those who know that they are innocent carry that burden.

Let us say, for the sake of argument, that two people are each given sentences of 10 years. The person who committed the crime knows that he will stay in prison for that period and will gradually prepare for release. He may or may not have remission, but he will know well in advance when he will leave prison. However, a campaign could be conducted for the individual who was wrongly convicted and is also in prison for 10 years, and he might be told with just days' notice that he is free to go. That individual would have had no means of preparing for release and his situation could not be compared, even broadly, with that of someone who was put in prison for a crime that they had committed.

I am concerned that that has not been taken into account. The comments from Adrian Grounds highlight the issue. He says that, sometimes,

"the wrongly convicted suffer the kind of trauma experienced by victims of war crimes."

We should not forget that such people are victims. The Executive's response fails to comprehend that we are dealing with different situations.

The letter by Kirsten Davidson of the Executive, which dates from April, talks about reducing the risk of reoffending. How can people reoffend when they did not offend in the first place? That shows the level of misunderstanding that exists in the Executive. We should refer the petition to one of the justice committees and highlight in the strongest terms those points and others that members may want to raise.

The Convener: I apologise for not mentioning at the outset that Tommy Sheridan is here to speak about the petition.

Carolyn Leckie: I concur with what Mike Watson and Linda Fabiani have said. Petition PE477 was submitted some time ago and there is no need for further delay. The petition should be referred to one of the justice committees. When one of those committees considers the petition, it might want to take account of the Home Office investigation in England and Wales.

The Executive has failed miserably to acknowledge the specific situation that is the subject of the petition. An assessment needs to be made of what support is necessary in cases that involve a miscarriage of justice. Because the people in such cases do not admit guilt—they are innocent, so why should they admit guilt—they do not get the rehabilitation and support services prior to release that would allow them to plan for their release. It is a complete and utter insult to suggest that those services should form part of the same strategy as the one that applies to offenders.

I am really quite upset on the petitioners' behalf. I imagine that the Executive's response to petition PE477 has compounded their suffering. It is a disgrace. Like other members, I argue strongly that we should move forward on the petition. We need to find a solution. A disservice has been done to these people in the past and that needs to be corrected.

12:15

John Scott: I have nothing to add to what has been said so eloquently by other members, other than to say that I, too, am dismayed by the surprisingly unsympathetic response from the Executive—it is almost bizarre. I endorse totally what other members have said. We should refer petition PE477 to one of the justice committees.

Tommy Sheridan (Glasgow) (SSP): The disappointment in the Executive's response can be contrasted with the positive comments from the committee. It is definitely helpful to hear those comments. In a previous life, I had occasion to

spend four months in a training-for-freedom unit in a prison not far from this committee room. It is interesting to note that the training was called "training for freedom". It was aimed at prisoners who had been convicted, had accepted their guilt and were being trained to be reintegrated into society.

What about the people who are innocent? What happens when they are released as the result of an appeal decision or a campaign? The term "training for freedom" does not apply. People including Robert Brown, Joe Steele, Tommy Campbell and Stuart Gair were detained for crimes that they did not commit. Mike Watson highlighted the most important paragraph in the Executive letter. The Executive says there is no need for "specific and targeted support". It is incredible that it can say that.

If a miscarriage of justice takes place—unfortunately it is a fact of life that that happens—surely we must have a package of aftercare to target those who have been the victims of miscarriage of justice. I am pleased by the response of committee members, but saddened by the Executive's response.

The Convener: I think that there is unanimity around the table with regard to our disappointment at the Scottish Executive's position. We have to convey that to the justice committees when we ask them to look into the issue quickly and forcibly. It is certainly an issue that needs to be addressed.

John Scott: Our recommendation should include the suggestion that we should write to the Executive again saying that we note its response but that we are not content with it.

Linda Fabiani: There may well be an issue about that but, if we write back to the Executive, we should split what we say into two parts. We asked for the facts about what was in place and the Executive gave us the facts. However, from the way in which the Executive responded, the language that it used and the suppositions that it made it appears that it completely misunderstood the point. The Executive has to take that on board.

Jackie Baillie: I support what Linda Fabiani said. The Executive's response was unhelpful; it missed the point substantially. We have therefore not been able to progress our consideration of PE477. The recommendation that we should send the petition to one of the justice committees, along with a copy of the report from the pilot project that the Home Office is conducting, is sensible. There would be no harm in writing to the Executive in the terms that have been outlined.

Mike Watson: When our clerk writes to the justice committees and the Executive, I ask that he specifies the comments that members have made.

The Convener: It is standard procedure for the clerks to write back to the Executive to say what the committee has done with a petition. It would be worth pointing out to the Executive not only that it missed the point, but that that was the second time that it had missed it—the matter has been before the committee and been pursued previously. All the comments that members have made and members' strength of feeling will be conveyed in the letter to the Scottish Executive, which will emphasise the points that have been made about the extent of the correspondence and members' disappointment with the responses that have been received.

Solvent Abuse (PE580)

The Convener: Our next petition is PE580, from Mr John O'Brien, on solvent abuse. The petitioner would like Scotland to be brought into line with the rest of the United Kingdom, where trading standards officers can undertake test purchasing by sending children into shops to buy alcohol, tobacco and lighter fuel. He would also like: an increase in the legal age from which a person can buy lighter fuel; a change in the law to make shopkeepers record every sale of solvents by asking for identification and a signature; a reduction in the size of canisters from 250ml to 50ml; and warnings of the dangers of solvent abuse to be displayed clearly on canisters.

The previous committee considered the petition on 14 January 2003 and heard a presentation from Mr John O'Brien. The committee agreed to write to the Deputy Minister for Justice seeking confirmation of the Scottish Executive's position on the issues raised in the petition, together with clarification on which areas of legislation regarding the sale of lighter fuel are reserved and which devolved. It also agreed to request comments on a number of issues that were raised from the Scottish Retail Consortium, the Scottish Consumer Council, the cross-party group in the Scottish Parliament on oil and gas and Shell UK.

Responses have now been received. There seems to be agreement that, although the issues that have been raised are extremely important and need to be addressed, the response needs to be proportionate to the scale of the problem. There also seems to be general agreement that improved enforcement of current controls, together with improved prevention and education involving the retail sector and young people, would be more effective than further restrictions on the sale of solvents. The Executive has provided details of the steps that it has already taken on those matters.

It is interesting to note Shell UK's efforts to have Bitrex, a deterrent product, added to lighter fuels and the problems that it has experienced in

obtaining full industry support for that initiative. Clearly, that is not a matter for the Scottish Parliament, but the Scottish ministers could perhaps urge their UK Government counterparts to consider pursuing it further with the industry.

Do members have any comments?

Linda Fabiani: As a matter of interest, I used to work for the company that produces Bitrex at its factory in Edinburgh, and I once had the horrible experience of a cheese roll that had been contaminated. Believe me, Bitrex is an answer.

The Convener: That does not say much for the canteens at that place of work. Perhaps we should look into them.

Carolyn Leckie: The suggestion that we ask for the views of the family is the right one. We should take cognisance of their views on whether improved enforcement, prevention and education are enough, given their experience.

The Convener: Once the family has written back to us, we could take the matter further with the ministers in the Scottish Executive who have responsibility in the matter.

John Scott: We must consider better enforcement procedure, if that is at all possible, but we should wait for the UK survey.

The Convener: Do members agree with that course of action?

Members indicated agreement.

Robert Burns (National Holiday) (PE607)

The Convener: The next petition is PE607, by Virginia Lingstadt on behalf of Safeway plc, on a celebration of Robert Burns. The petitioners call on the Scottish Parliament to take the necessary steps to declare 25 January a national holiday in Scotland in celebration of Robert Burns. The previous committee considered the petition in March 2003 and agreed to write to the Executive requesting an indication of whether it would consider declaring 25 January an official holiday or national day. The committee also agreed to seek comments from Dumfries and Galloway Council and the three Ayrshire councils about the possibility of declaring a local holiday on that date, given the local associations with Robert Burns.

Responses have now been received. The Executive does not support the declaration of 25 January as a national holiday and cites as reasons for that view the established arrangements for agreeing public holidays, various practical difficulties of having a public holiday on that date and the fact that an additional holiday would cause disruption to education and industry.

The Executive considers that a national Burns

day is not required, as Burns's work has been celebrated for more than 200 years, and it is confident that that tradition will continue. The Executive makes it clear that any local authority could declare the poet's birthday a local holiday in its area. Of the councils consulted, two are in favour but flag up the possible cost implications of such a move, while the other two councils do not support the proposal.

It is worth noting that the petition's signatures appear to have been collected as a publicity event at an individual Safeway store around the time of Burns day this year; the petition does not appear to involve a national campaign or to involve any Burns-related organisations.

Linda Fabiani: We should take no further action, on the grounds that there are established local arrangements for agreeing public holidays.

Carolyn Leckie: I am interested in whether, if the petition were successful, Safeway would add the holiday to its employees' annual public holiday entitlement. If that were the case and if the move were replicated by all employers—and if they picked up the tab—there might be a good argument for the proposal. I stand to be corrected, but I suspect that that is not the case. It is significant that no Burns organisations are involved. We should take no further action on the petition.

The Convener: We should let the member for Robert Burns country speak on the matter.

John Scott: Thank you for your kindness, convener, but I am not the local member; that is Cathy Jamieson. Burns's birthplace is in Ayr, but not the part of Ayr that I represent.

I have received no representations or correspondence on the issue. I am in favour of doing everything possible to promote Burns and his works and the tourist venue of Ayrshire, but I do not think that we should take the petition any further.

The Convener: Perhaps we should write to Safeway to ask whether it will give people Christmas day off.

Mike Watson: It is important to note that two of the four local authorities that were consulted are not in favour of the proposal. One might think that all those authorities would be in favour of anything that they thought would boost tourism and an interest in Burns and the heritage of the area, but only 50 per cent of them were in favour.

John Scott: The Executive is doing good work in promoting Burns through the Burns festival, which has been a huge success for the past two years. As I said, we must do all that we can to promote Burns, but that will not be achieved by creating a statutory holiday.

Carolyn Leckie: We must bear in mind what Burns would have thought about such a big conglomerate trying to stamp its badge on a public holiday in his name.

The Convener: You never know—he might have shopped in Safeway.

Do members agree to the recommendation that we note the petition and take no further action on it?

Members indicated agreement.

Equal Opportunities (PE618)

The Convener: Petition PE618, which is by Aitor Endemaño Isasi, calls on the Scottish Parliament to set up a single equality body for Scotland that is accountable to the Scottish Parliament in order to improve and develop channels of communication between the Parliament and people from ethnic minorities. The petition is prompted by the petitioner's concern about lack of awareness and understanding in the Parliament of what he considers to be the negative and discriminatory treatment that people of ethnic minorities who live and work in Scotland face.

We considered the petition on 3 September and agreed to write to the Executive to ask for its comments. We also agreed to ask the Equal Opportunities Committee for its views. Responses have now been received. The Executive confirms that the establishment of a single equality body would require legislation and that equal opportunities legislation is a reserved matter. There are exceptions, which allow the Executive to promote equal opportunities in Scotland and to impose duties on devolved public bodies to ensure that they comply with equal opportunity requirements.

The Executive confirms that a UK Government consultation on the merits of a single equality body ended in February 2003 and that an announcement on the outcome of the exercise is expected shortly. It is anticipated that any single equality body would cover age, colour, race, nationality or ethnic or national origins, disability, gender reassignment, religion or belief, sex, pregnancy, marital or family status and sexual orientation. It is expected that any such body would be fully functional by 2006. The Executive explains that it still has to establish how the administrative arrangements would operate at a devolved level, although the consultation made it clear that they would have to reflect Scottish needs and interests. It also states that any new machinery must have a strong, well-resourced presence in Scotland, with a remit that is clearly tailored to Scottish needs.

The Equal Opportunities Committee explains that it has agreed to await developments in

relation to the UK Government's proposal for a single equality body before conducting an inquiry into the matter. It provides details of the work that the previous Equal Opportunities Committee did in relation to race issues and makes clear that the current committee is committed to developing that work in this session. The committee has appointed a race reporter, who will work to improve channels of communication between the Parliament and ethnic minority communities. In view of that on-going work, the committee recommends that no further action is required on the petition.

12:30

Jackie Baillie: Given that we have received such positive, comprehensive replies, I suggest that we take no further action on the petition. It is evident that the matter will be progressed at UK level and that the Equal Opportunities Committee will maintain an interest in the issue of a single equality body.

The Convener: Is that agreed?

Members indicated agreement.

Asthma Treatment (Prescription Charges) (PE623)

The Convener: Petition PE623, from Vicki Henderson, concerns a proposal to abolish prescription charges related to the treatment of asthma. The petitioner calls on the Scottish Parliament to take the necessary steps to amend existing legislation to abolish prescription charges for all medication that is prescribed for the treatment of asthma. The petition is prompted by the petitioner's concern that the inability of many asthma sufferers to afford to purchase their prescribed medication is aggravating their condition.

In June, we agreed to ask the Executive for its views on the petition. Specifically, we asked it to indicate whether it plans to review the list of conditions that are exempted from prescription charges and to add asthma to that list. The Executive has responded, confirming its commitment to review prescription charges for people with chronic health conditions and young people in full-time education or training. It hopes to make available by the end of 2003 further information on the remit of the review and the consultation process that is to be followed. The Executive makes it clear that all patient interest groups, NHS professionals and other stakeholders will be invited to participate in the consultation. After the consultation has ended, the Executive will consider whether any change should be made to the current arrangements.

In response to the petitioner's strong concerns about financial difficulties that can affect patients'

compliance with prescribed medication regimes, the Executive sets out the cost benefits of prescription pre-payment certificates and outlines the current arrangements for exemption from and remission of charges, including the help that is available under the NHS low income scheme.

Would members like to comment on the petition? Tommy Sheridan has indicated an interest in this matter.

Carolyn Leckie: I do not know whether I have an interest to declare, although one member from the SSP is proposing to lodge a bill to abolish prescription charges.

The Convener: I was simply registering the fact that Tommy Sheridan would like to comment on the petition.

Carolyn Leckie: Obviously, I support the proposal to abolish prescription charges. Given that the Executive is to conduct a consultation on this issue, perhaps there would be no harm in our drawing the Health Committee's attention to the petition. At some stage, the Health Committee will take evidence on prescription charges. We may not ask the committee to act on the petition immediately, but we should ensure that it is aware of it. We should also let the petitioner know that we have referred her petition to the Health Committee.

John Farquhar Munro: The recommendation is to take no further action because there is on-going scrutiny of this matter at present. We should suggest that consideration be given to extending free prescriptions to asthma sufferers, some of whom are required to purchase medication almost daily.

The Convener: It has been recommended that we ask the Health Committee to consider this matter. Other issues relating to prescription charges will also be raised. I know that there has been discussion of prescription charges relating to oxygen bottles and to people with chronic and terminal illnesses. All those issues are being considered.

Jackie Baillie: That is the point that I wanted to make. I do not want to pick out one illness as a priority over others. As the convener indicates, there are a number of limiting illnesses that require constant medication. I would be happy to conclude consideration of the petition, subject to our ensuring that the Health Committee is aware of it, as Carolyn Leckie suggested. We should also ensure that people are included in the Executive's consultation process.

John Scott: Are we asking the Health Committee to act on the petition or to note it? My view is that it should simply be asked to note it.

The Convener: We could send the Health Committee a note of the contents of the petition.

Carolyn Leckie: Obviously, there are processes in train, a forthcoming bill and so on, but I do not want the petition to disappear and for it to be up to the petitioners to follow up the issue. The Health Committee should be made aware of the issue.

The Convener: If we write to the Health Committee, giving it the details of the petition and asking it to note them, it would have to take the matter into account as part of the consultation process.

Is that agreeable to everyone?

Members indicated agreement.

Rail Network (Local Railway Stations) (PE629)

The Convener: Petition PE629, by Norman Banski, calls on the Scottish Parliament to take all possible steps to facilitate the reopening of suitable local railway stations across Scotland, such as that at Laurencekirk, to improve access to the rail network and encourage the use of public transport.

We considered the petition on 3 September and agreed to request comments from the Executive, Aberdeenshire Council, the Strategic Rail Authority and the Local Government and Transport Committee. The Executive confirms that a proposal to reopen a railway station is a local transport matter and, as such, is the responsibility of the relevant local transport authority or transport partnership. It indicates that funding is available from the integrated transport fund if a robust business case can be made. Any new station would need to be acceptable on the network and in operational, technical and commercial terms. The Executive makes it clear that it would be willing to enter into discussions with Aberdeenshire Council, should any application for funding be made.

Aberdeenshire Council makes it clear that it fully supports the principles of reopening railway stations at Laurencekirk and other locations in north-East Scotland and is actively engaged in developing proposals for enhanced local rail services and facilities. It states, however, that that report is dependent on any such proposal not prejudicing the planned development of the Aberdeen crossrail scheme and other related strategic priorities. The council points out that, in the past few weeks, the Scottish Executive has passed to it a copy of a further ScotRail-sponsored study that develops previous feasibility work on the Laurencekirk proposal into a cost-benefit assessment. That study is being scrutinised prior to discussions with the Executive and ScotRail on how the matter might be taken forward.

The SRA indicates that it has supported ScotRail's consultation with Aberdeenshire Council to develop the Laurencekirk proposals further as part of the Aberdeen crossrail project. It also indicates that it is to issue process and procedure guidance on new railway stations by the end of 2003.

The Local Government and Transport Committee has agreed to consider the issue of new stopping services as part of a broader investigation that it is to conduct into improvements to the rail network. The clerks have been advised that the Local Government and Transport Committee would not, therefore, be seeking a formal referral of the petition.

Mike Rumbles and David Davidson would like to speak on this matter.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Norman Banski has campaigned for a long time for the reopening of the Laurencekirk station and I have held talks with ScotRail, Aberdeenshire councillors and the Minister for Transport. I want to ensure that the committee is aware of some excellent news. Members should know that, on Friday, a joint announcement was made by ScotRail, the Scottish Executive and Aberdeenshire Council to the effect that they had received the Scottish transport assessment guidelines report and that the matter will be considered by the infrastructure committee of Aberdeenshire Council on 27 November. All three organisations are making positive noises about the proposal, which has cross-party support. Hopefully, the proposal should move to stage 2 of the process. Everybody is giving it a fair hearing on the basis that a robust business case can be made. If that case is made, there will be a fair wind for the proposal.

Mr David Davidson (North East Scotland) (Con): A long time ago, at the request of the local community, I held a public meeting in Laurencekirk. I invited support from across the parties and the meeting was packed out. Norman Banski's name appears on the petition because of the vital role that he has played on behalf of the local committee.

I am delighted with the way in which the Public Petitions Committee has dealt with this petition, which has genuine cross-party support. However, given the stage that we have now reached, where the council is operating with ScotRail and the Scottish Executive, I am concerned that the committee should now leave the issue alone. The committee should not come back to the petition if the issue does not progress because, I believe, the Local Government and Transport Committee will deal with the issue at a later stage down the line. Also, we will need to ensure that the Scottish Executive has a watching brief on the issue.

I am grateful for the committee's support. I assure members that local people are desperate to have the station reopened, not just because of the dangers of the A90, but because people need to access work both north and south of the town. People also need to be able to get to educational and recreational facilities. Reopening the station would provide a prime example of how such developments can meaningfully benefit a large community: between 20,000 and 30,000 people live in the catchment area. I ask for the committee's continued support on the matter.

The Convener: Do members have any views? If we are happy with that, we could keep our eye on the petition. Obviously, we cannot get involved in an individual decision, but we could maintain the petition as long as that process was on-going. If David Davidson and Mike Rumbles get the successful outcome that they hope for, that would suffice. If that does not happen, the petition could be sent to the Local Government and Transport Committee, which will consider the problems of the rail network in general terms. The petition need not go away, just because we have been told this morning that some progress is being made. I think that we could leave the petition open. Is everyone happy with that?

However, the petition is about a specific railway station, which is an issue that we could not comment on. If the specific issue is not concluded, the Local Government and Transport Committee could look into the process to consider the wider issues. As we cannot take the petition any further, we could just conclude the petition.

Jackie Baillie: I think that we need to conclude the petition. The petition has been registered with the Local Government and Transport Committee, which intends to pursue an inquiry along similar lines to its inquiry into bus services. I think that that would be adequate as a monitoring mechanism.

Mike Rumbles: I am almost in full agreement with David Davidson, except that I agree with what Jackie Baillie has just said. The petition has been useful and has served its purpose. Along with everything else, the petition has helped the process along. As the local member for the area, I am grateful to be able to tell local people that the issue has received the backing of the committee, but I am not sure what useful purpose it would serve to keep the petition open.

John Scott: I agree with the sentiment that there is no useful purpose in keeping the petition open. In concluding the petition, we should send it to the Local Government and Transport Committee as part of its on-going investigation into improvements in the rail network. If that committee has already received the petition, the petition has done its task.

Mr Davidson: I thank the committee for its recommendation. I accept that the committee wants to close the petition, but will the convener write to the clerks of the Local Government and Transport Committee to highlight the comments that have been made today?

The Convener: Yes.

Is everyone happy with that?

Members *indicated agreement.*

Dungavel (Detention of Children) (PE671)

The Convener: Petition PE671 is from the Scottish Trades Union Congress on the detention of children at Dungavel detention centre. As members are aware, the petition calls on the Parliament to oppose the detention of children at Dungavel and to ensure that the Executive meets its statutory commitment to provide mainstream education for all children in Scotland.

On 1 October, we agreed to write to the minister to seek clarification of the Executive's position as to the reserved or devolved nature of the issues that the petition raises concerning the education of children who are detained at Dungavel. We also wanted an update on any action being taken following the recent parliamentary debate on the matter. In addition, we agreed to seek advice from the Parliament's legal office. We were handed the responses at our previous meeting, but we agreed to wait until today's meeting to discuss them.

The Executive response states:

"The children who are in Dungavel are detained with their families under the Immigration Act 1971"—

which is a reserved matter. The response continues:

"As the children are detained under such legislation, it is the responsibility of the Home Secretary to ensure that their detention is in accordance with all relevant laws, including any that relate to education."

The Executive also states:

"the nature of the response to the HMCIP and HMIE reports on Dungavel and the timing of any response remain matters for the Home Office. However ... discussions between the Home Office and the Scottish Executive and South Lanarkshire Council and HMIE are underway."

No further information has yet been provided.

As members can see from the papers that have been provided, the advice from the Parliament's legal advisers is much more comprehensive. It discusses in some detail the interface between the Scotland Act 1998 and the relevant statutory provisions on immigration, asylum and education. It is acknowledged that it is possible to argue the point either way as to whether the education of children in removal centres is a reserved or a devolved matter, but our legal advisers'

interpretation of the relevant legislation is that the matter is indeed reserved. However, the legal team makes the point that only the courts can give a definitive answer on the issue. It is also the team's view that the education authority may have some statutory functions in relation to the education of such children under the Education (Scotland) Act 1980, but that is entirely a matter for the education authority and the Home Office—which is the relevant Whitehall department—in which neither the Scottish ministers nor the Parliament have any powers to intervene.

Therefore, the legal advice that is provided appears to back up the Executive's position. The issue that the committee must consider is what we should do with the petition in the light of such advice. Tommy Sheridan remains with us, as he wants to participate in the discussion.

12:45

Linda Fabiani: It is clear that lawyers will disagree about the matter until legal action is taken and there is case law to depend on.

There are wider issues around Dungavel that are not just about education, but about children's services in general and whether the Children (Scotland) Act 1995 has any legal bearing—that has not been looked into.

I will give the Executive a wee bit of credit. It is moving towards a willingness to talk about such matters and to put out more information than it has ever done previously. As the petition focuses on education, I suggest that we ask the Education Committee and the Executive whether it would be acceptable for regular reports on the progress of talks with South Lanarkshire Council on education, discussions between the Executive and the Home Office, and plans for progressing such issues, to be made available so that the Parliament is always aware of what is happening.

Carolyn Leckie: I want to raise a number of issues, some of which I referred to when we received legal advice earlier. I would like to put on record some of the questions that were asked then.

We have asked for a legal opinion, but we must remember that there is a democratic impetus to the matter and that the Parliament is a democratic institution. It is clear that there is a significant democratic will in the country and that civic Scotland has democratic concerns about the rights of the children in question, education services and so on. We should bear that in mind. In the absence of a conclusive legal opinion, we cannot ignore our democratic and political responsibility to push the issues. We should not use an equivocal legal opinion as a reason not to pursue matters, although I do not think that anybody here is suggesting that that should happen.

I want to repeat some of the questions that I asked earlier, to which we do not have answers. If the Home Office has entire and exclusive responsibility for the children in question, why can there be a situation whereby the children's reporter declares that they could convene a panel for children in Dungavel and the care commission may and might conduct an inspection of the facilities at Dungavel?

If those devolved agencies have a statutory responsibility, what are the democratic lines of accountability for the Scottish Parliament in relation to those devolved areas? Is the Home Office saying that it has effected a Guantanamo Bay situation at Dungavel? Also, there are contradictions between Margaret Curran's letter and the legal opinion that she has obtained, because she has declared that there have been discussions about the provision of education at Dungavel. All that needs to be explored.

The other point that I raise this morning, which again has not been explored and which would inform debate about the legal situation, relates to the financial lines of accountability. Health services for people who are detained at Dungavel are obtained from the national health service in Lanarkshire. The situation is not absolutely clear, but I suspect that the Home Office does not reimburse Lanarkshire NHS Board for those services. Who picks up the purse for the education of children living in the South Lanarkshire Council area? Who would pick up the purse if the reporter to the children's panel were to become involved in a particular case? Who would pick up the purse if the care commission were to conduct an inspection? I think that such costs would be met from the Scottish purse—the block grant that we get from Westminster—so there must be a line of financial and democratic accountability.

We need to remember that the issue is the rights of the child. In summary, because so many questions remain unanswered and because there is democratic force behind the STUC's petition, it is incumbent on the Public Petitions Committee at least to refer the petition to the Education Committee for consideration. The issue is not dead.

Jackie Baillie: At an earlier meeting, I think that I said that, although we could certainly seek a legal opinion, I did not find merit in the suggestion, as one can always find a lawyer somewhere who concurs with one's particular view. I am always prepared to be proven wrong, but two sets of lawyers have agreed a view—although that view does not necessarily suit members of the committee. I do not want to get into a deeply political discussion, but I think that the answer has been provided for us: if people wish to establish the legal situation, that is a matter for the courts and not for the Public Petitions Committee.

I was slightly confused by the comments about the contradictions in the Executive's comments. Parliamentarians from different parties regularly call on the Executive to intervene in areas where it has no power. The fact that the Executive has muscled in, to all intents and purposes, to engage in the discussion about education and the protection of children at Dungavel is a matter on which we should congratulate the Executive, rather than criticising it because its action appears to be contradictory to the constitutional position.

There is huge sympathy for the situation that gives rise to the petition and huge sympathy in Scotland for ensuring that children are the primary focus of any action. However, I do not think that we need to continue petition PE671. The Executive is already working on the matter and the Education Committee is interested in the situation. There will be opportunities for parliamentarians to scrutinise that work. Indeed, the cross-party group on refugees and asylum seekers has also been active. My view, based on the advice that we have been given, is that we should conclude the petition now, in the full knowledge that scrutiny of what goes on in Dungavel will continue.

Ms White: We all express sympathy for what is happening at Dungavel and some of us also express anger and disbelief. That does not help the kids who are imprisoned there now. I assume that the intention of this petition, and of the Public Petitions Committee's earlier activity, is to try to determine the legality of the detention of the children in Dungavel and whether their education is for the Scottish Parliament or for Westminster to resolve.

That is why we get differences of opinion, not just in separate letters from the Minister for Communities, Margaret Curran, but in advice from lawyers. We cannot deny that the legal advice states that there is clearly an overlap to be resolved between immigration, which is a reserved matter, and education, which is not. There is no contradiction in that respect. We could go on and quote from the various documents, as we did earlier.

I want to know what the committee's powers are in this respect. Given that we have received various documents from legal advisers and from Margaret Curran and the Executive that contradict each other, I want the matter to go to the courts, because that is the only way that we can address it. However, does the committee have the competence to do that? I know that we cannot recommend such a course of action, but perhaps the STUC can pursue the matter. Can the committee advise the minister that we believe that the Home Office should take the matter to the courts? I ask the clerk's advice about the committee's competence and powers to take

things further, because I do not think that we can satisfactorily leave the matter the way it is. After all, the documents that we have received contradict each other, and the public and the kids and families in Dungavel deserve a legal response.

Helen Eadie: Everyone in the room is sympathetic to the plight of the children who are involved, and I acknowledge members' comments and questions on the matter. In the past week, we have seen images of the Ay family children in Germany. I have been interested in how, with their governmental set-up, the Germans have been able to manage a situation that we have had a lot of difficulty with. In that respect, the discussions that we are having with our Westminster colleagues form part of the equation. Perhaps, as a member of the cross-party working group on asylum seekers—I do not know who else is a member of that group—Jackie Baillie could tell us what links have been made and what discussions have taken place between Westminster and Scottish parliamentarians on this matter. The fundamental will of the Scottish people is to find a solution that works; it would be a tragedy if the matter simply ended up in the courts. Surely, if the political will exists we can find a way of making progress that does not drag people through the courts and makes Scotland seem like an uncaring and unsympathetic nation. We are not that kind of nation: Scots are caring and supportive of people who find themselves in such difficulties.

That response does not evade the issue, which we all understand. The committee should refer the petition to Westminster with all the documentation and transcripts of debates and call upon it to help us find a solution. I think that there is a will at Westminster and at the Scottish Executive to do so. The way forward is for the committee to reflect the opinions that have been expressed and to send to Westminster every bit of documentation that it has received from day one.

The Convener: I want to clarify some of the comments and points that have been made. Two members have said that the information that we have received from the legal advisers contains an equivocation. I have read the paper again, which says that

"in all circumstances ... where children are detained or otherwise to be dealt with under the Immigration Acts, such matters are reserved to Westminster".

There is no equivocation in that statement. I understand why members are unhappy with the advice; however, if the committee seeks advice from our legal advisers and then says, "We're sorry, but that's not the advice that we wanted", we will find ourselves in a difficult position if ever we want to ask for legal advice in future. Advisers will ask themselves, "What advice do they want

me to give them?" The committee has to be very clear about what it wants to do.

Although members might not want to agree with or accept the advice, we have to accept that that is the advice that we have been given. As for what we should do with that information, I fully appreciate the host of pertinent points that Carolyn Leckie makes about who pays for things and why the Scottish Executive picks up the tab for things that are reserved. Those are all legitimate questions, but we cannot start from the position that we are not happy with the advice that we have received. We have received advice that is completely unequivocal; it says that the matter is reserved. That being the case, I do not know where we can refer the matter.

Helen Eadie: For clarification, I am not refuting the legal advice.

The Convener: I know that, but I am saying that if we accept the advice as our starting point, I do not know whether we can then refer the matter to Westminster.

John Scott: If we accept the advice, that is the committee's decision. If other parties want to raise an action and challenge that advice on the grounds of the reasonable doubts that have been expressed, it is up to them to do so.

13:00

Helen Eadie: The clerk will refresh my memory, but I think that the committee has referred petitions to Westminster on several occasions; it is within normal practice for us to do that. It is my understanding that, when we do so, we are within our settlement arrangements with Westminster and within the legal advice that we have been given. We are reflecting views that have been brought to the committee by the Scottish public and asking the Westminster parliamentarians to take those views forward as they see fit.

The Convener: The point has just been made to me that, in the past, the committee has made referrals to the relevant minister at Westminster for that minister to take cognisance of petitions.

Helen Eadie: In this case, when I say Westminster, I mean the Home Office.

Carolyn Leckie: The matter goes back to what I said earlier about what legal advice represents—it represents an opinion, as Margaret Macdonald confirmed. It is not arbitrary and it is not a judgment; it informs our deliberations. I do not think that it is to be disrespectful or to disregard the advice to make a political decision to move the issue on. It is perfectly competent for us to do so. In any case, a legal opinion before a judgment only informs us about the balance of risks in whatever decision we take. It is not binding and it

is not arbitrary. It would be wrong for us to go down the road of being bound by an opinion, because we are politicians.

There is a political responsibility and a requirement for political courage to push the issue forward. As far as I am concerned, the issue is that children's human rights are being breached left, right and centre. Despite the provision of services for the children concerned, it seems that the Scottish people and the Scottish Parliament cannot exercise their democratic responsibility and accountability in this area without permission from the Home Office. The Home Office is by no means qualified to deliver education, health or social care. It is legitimate for the Scottish Parliament to be concerned about the issue.

The legal opinion does not prevent us from asking Westminster to comment or from referring the matter to the Education Committee. If we did not do those things, that would be a political decision. We can also ask the Executive to use its power to seek conferment of powers that might be perceived at present not to be theirs, by getting the Privy Council to meet. There can be an exchange here; the Scottish Executive can intervene. I am merely pointing out the contradictions in the various statements. It is right for the Executive to concern itself with the matter. However, if it does so, the Parliament needs to be able to hold it to account, so we cannot ignore the issue.

Tommy Sheridan: I will be brief, convener. I appreciate the fact that members are giving me the opportunity to speak. Issues will arise all the time where members feel that the boat should be pushed out as far as possible and this is that type of issue. The Standards in Scotland's Schools etc Act 2000 states:

"It shall be the right of every child of school age to be provided with school education".

In a written answer on 3 January 2002, Nicol Stephen stated:

"Under the Standards in Scotland's Schools Act 2000, every child of school age has a right to be provided with school education by an education authority. This includes children of asylum seekers within their area."—[*Official Report, Written Answers*, 3 January 2002.]

There has been no Sewel motion in relation to the Asylum and Immigration Act 1996 to remove that right from children who are held in detention. The 2000 act clearly states that the right applies to every child. It does not say, "It shall be the right of every child, apart from those who are held in detention."

The Convener: For clarification, Tommy, the legal advice that we have received says that, if a person is in a detention centre, they are under the authority of the Home Office. That is the advice

that we have been given—it says exactly what you are saying that it does not say.

Tommy Sheridan: My point is that we have not had a Sewel motion to remove from us this devolved area of power. There is no argument about the fact that education is devolved and that immigration is reserved. When Westminster encroaches on a devolved area, we deal with that via a Sewel motion. There has been no Sewel motion on this issue.

The Convener: I agree with you on that point, except that what we are talking about is a reversal of that process. The legislation existed and was not passed on to the Scottish Parliament under the Scotland Act 1998.

Tommy Sheridan: But the legislation amended a number of Scottish acts.

The Convener: The legal advice that we have received says that the issue is still reserved to Westminster. As a committee of the Parliament, we can ask for legal advice from the Parliament's legal advisers, but this committee is not here to pick holes in that advice, although you and any committee members are entitled to disagree with it. The advice that we received is that, yes, there are areas of debate. The adviser did not say that there were no areas of debate. She was asked for her legal advice and her legal advice is clear and unequivocal. What we do with the petition is a matter for debate, but we cannot debate the legal advice that has been given to us. It would be wrong of the committee to challenge the advice because we were not happy with it.

Tommy Sheridan: My point is that the fact that there is an area of debate—and everybody accepts that there are areas of debate—is ground enough at least to refer the petition to the Education Committee.

The Convener: As a committee of the Parliament, the Education Committee could, like this committee, seek legal advice from the same legal advisers and get the same advice. What purpose is there in that? We sought advice on behalf of the Parliament—that was our request. There was initially no legal advice from the Parliament's advisers; there had been advice from the Scottish Executive, but we wanted to test it on behalf of the Parliament.

The legal advice was received on behalf of the Parliament. The adviser said that the issue can be tested in court—there is no question about that. She did not say that the issue was hard and fast. However, she has given her advice. This committee would be leaving itself open to all sorts of accusations if it said, "Thanks very much for giving your advice, but we're not prepared to accept it because it's not the advice we wanted."

Carolyn Leckie: That is not what I am saying.

Ms White: I want to provide clarification. I have the original document, from which Mike Watson and I quoted earlier. Under the heading "The legal position", the document says:

"There is nevertheless clearly an overlap to be resolved between immigration which is reserved and education which is not."

That is part of the legal advice. That is where we ask the question—

The Convener: Sorry, Sandra, but if you are going to read out from documents, I have to stop you, because the final paragraph—

Ms White: It is the legal advice.

The Convener: That is an early argument, but the legal adviser comes to a conclusion and explains why she arrives at that conclusion.

Ms White: It is still part of the argument, whether you accept it or not.

The Convener: There is no point in taking a passage from her previous discussion.

Ms White: The earlier document was a synopsis.

The Convener: No, you have taken a paragraph from her discussion. I read out the definitive answer that she gave, which is her conclusion.

Ms White: Well, what I read is written here.

Jackie Baillie: You are absolutely right, convener. We cannot afford to cherry pick legal advice. We need to give cognisance to the conclusion that is arrived at. I am probably going to astound Carolyn Leckie by agreeing with her, in as much as I accept that when you get legal advice, it is up to you whether you take it. However, at the end of the day, the committee needs to be clear that the legal advice from our independent adviser is the same as the Executive's view, which is that these matters—irrespective of whatever grey areas can be challenged in the courts—lie with Westminster.

The political courage is not in continuing with the issue and saying, "We can do something about it." We have to be clear that there is a productive route that people can go down and that that is the Westminster route. My recollection is that the STUC representatives acknowledged that at our last meeting with them and said that they were in dialogue with Westminster. It would be appropriate for us to tell the STUC that, given the advice that we have received, we believe that the most productive way forward is the Westminster route.

John Scott: In addition, this committee should maintain a dialogue with Westminster, too. The clear advice is that the matter is one for the Home

Secretary and, in relation to the provision of education, for South Lanarkshire Council. However, I take on board the points that Carolyn Leckie has made, which I think need to be pursued so that we can find out who ultimately pays for all the funding streams that are required to maintain these people. Taking other members' advice, I think that we should write to the Home Secretary—if he is the relevant person—asking him to let us know what the on-going situation is.

Carolyn Leckie: I might need to clarify what I was saying. I am not suggesting that we challenge the veracity of the legal advice that we have obtained; I am saying that we should recognise the advice as an opinion that informs our discussions. We still have a political decision to make and the freedom to make it. We have a moral and political responsibility to those children, because this is the Scottish Parliament and, normally, all children in Scotland would come within the ambit of this Parliament. We have a legitimate right to express an interest in those children and to follow the issues through.

I do not think that, in order to wrap the issue up, we should just accept that the matter is the responsibility of Westminster. I do not think that that should be the advice that we give to the petitioner. The Scottish Parliament should maintain an interest and progress the petition through its structures. In the first instance, the petition should be referred to the Education Committee. I think that we will have to put the matter to a vote.

The Convener: I think that that is what it is coming down to. Carolyn Leckie's recommendation is that the Public Petitions Committee should refer the petition to the Education Committee.

Carolyn Leckie: Yes. However, I think that a number of other committees would have an interest in the petition.

The Convener: The petition has to be referred to one committee, although other committees might make comments on it.

Carolyn Leckie: The petition is specifically about the educational rights of children, so the Education Committee is the obvious committee to which to refer it.

The Convener: Do you want to move a proposal to that effect, Carolyn?

Carolyn Leckie: Yes.

The Convener: Do we have a seconder?

Ms White: I will second it.

Helen Eadie: Convener, I made another recommendation.

The Convener: I know. The alternative is Helen Eadie's suggestion that the petition be referred to the Home Secretary at Westminster.

Helen Eadie: I am suggesting that we refer the petition with all the documentation accompanying it and the *Official Report* of all the debates that we have had on it, right from the start.

Jackie Baillie: The suggestion is also that that should conclude our consideration of the petition.

Helen Eadie: Yes.

The Convener: We will take a vote on Carolyn Leckie's proposal first. The question is, that the Public Petitions Committee refer petition PE671 to the Education Committee for further consideration. Are we agreed?

Members: No

The Convener: There will be a division.

FOR

Leckie, Carolyn (Central Scotland) (SSP)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Scott, John (Ayr) (Con)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0. The proposal is disagreed to.

We will now vote on Helen Eadie's recommendation. The question is, that petition PE671 and all the accompanying documentation be sent to the Home Secretary for his consideration.

Helen Eadie: To take up Jackie Baillie's point, the proposal is also that that concludes our consideration of the petition.

John Scott: I am not sure that we should be concluding our consideration. I do not see why there has to be a conclusion. What will we do when we get a response?

The Convener: Shall we also seek a response?

Jackie Baillie: I recognise people's concerns, which I think we all share. However, if we have no power to do anything about the matter, surely the most appropriate place for it to be taken forward is Westminster. Some legitimate points have been raised about the costs and who pays them. However, those matters are not raised by the petition; they are separate issues. I believe that we should conclude our consideration of the petition. There are other avenues by which we may pursue those other issues.

John Scott: There will be time enough to conclude our consideration of the petition when we receive a satisfactory response.

The Convener: We can put the matter to the vote. The question, following Helen Eadie's recommendation, is, that petition PE671 be sent to the Home Secretary for his consideration, along with all the documentation accompanying it, and that that should conclude our consideration of the petition. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)

AGAINST

Leckie, Carolyn (Central Scotland) (SSP)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Scott, John (Ayr) (Con)
White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0. As that recommendation was disagreed to, we have reached no conclusion.

John Scott: I have a counter-proposal that we send the petition to the Home Secretary and examine his response, as and when we get it. We may decide to conclude our consideration of the petition thereafter.

Helen Eadie: I second that proposal.

The Convener: Do we need to put that proposal to a vote?

Jackie Baillie: Yes.

The Convener: The question is, that the committee send petition PE671 to the Home Secretary, seeking a response, which it will discuss at a later meeting.

Carolyn Leckie: I would just like to clarify that the proposal is not my preferred course of action. I want to make it absolutely clear on the record that my preferred option is for the petition to be retained by the Scottish Parliament and referred to the Education Committee. Having lost the vote on that option, I would like the petition to come back to the Scottish Parliament following referral to Westminster.

The Convener: That is the only option on the table.

Carolyn Leckie: I want to make it clear that it is not my preferred option. However, I will vote for it now.

Ms White: Will votes be minuted, so that it is clear who voted for what?

The Convener: Yes.

Ms White: The vote on Carolyn Leckie's proposal was lost, so we will have to vote for the other option.

The Convener: The question is, that we refer the petition, with all documentation, to the Home Secretary for consideration and that we await a response to be discussed by the committee, if required.

Ms White: What do you mean by "if required"?

The Convener: We will consider the matter once we have received a response from the Home Secretary.

Carolyn Leckie: We will get a response.

The Convener: The question is, that we seek comments from the Home Office on a number of issues relating to the petition. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Eadie, Helen (Dunfermline East) (Lab)
Leckie, Carolyn (Central Scotland) (SSP)
Scott, John (Ayr) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0. The committee has decided that the petition should be referred to the Home Secretary, whose response we will await.

Inadmissible Petitions

Village Harbours (IP47)

Employment Law (Provision of References) (IP48)

Depleted Uranium (IP49)

13:15

The Convener: The next item on the agenda is consideration of inadmissible petitions. IP49, from Robert Stephen, calls on the Scottish Parliament to introduce legislation to ensure equity for village harbours in Scotland. IP48, from George H Hamilton, calls on the Scottish Parliament to introduce legislation to ensure that a former employer, when named as a referee, is obliged to provide a reference. IP49, from Mr Stuart McCabe, calls on the Scottish Parliament to initiate an investigation into the health effects of exposure to depleted uranium munitions and to ensure the clean-up and mitigation of depleted uranium contamination at specific sites. There is accompanying documentation that explains why the petitions are inadmissible. Do members agree to the recommendations in that paper?

Members *indicated agreement.*

Convener's Report

13:16

The Convener: At our previous meeting, we considered Allan Wilson's response concerning the relocation of Scottish Natural Heritage. We indicated that the response had already been referred to the relevant committee, but we wanted to give members the opportunity to comment on it. The Finance Committee has agreed to appoint two reporters to investigate issues relating to the relocation and to ask SNH to provide the latest estimate of the cost of moving to Inverness. Do members want to make specific points about the minister's reply?

Helen Eadie: I do not have a copy of the response with me, but I think that in the last line the minister indicated that he would treat sympathetically a number of the issues that have been raised. I would like him to address the issue of alternative employment opportunities for staff. I realise that SNH is not part of the civil service and that it is a non-departmental public body, but I feel strongly that everything possible must be done in that regard. I applaud the Scottish Executive's policy. However, when the Executive pursues a policy that has such major ramifications for people it must take exceptional steps to assist those who are that policy's victims. It is right for the minister to remove bodies from big city centres to other areas, but he must treat sympathetically the people who are affected and help them to find alternative employment.

The Convener: The clerks will refer Helen Eadie's comments to the Finance Committee for consideration. The committee has appointed reporters to examine this issue.

I thank members for their attendance.

Meeting closed at 13:18.

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