

PUBLIC PETITIONS COMMITTEE

Wednesday 7 January 2004
(*Morning*)

Session 2

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PUBLIC PETITIONS COMMITTEE

1st Meeting 2004, 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 :

Boyd Calder (Burnaw n Residents Group)

Jan Goodall (Dundee Accessible Transport Action Group)

Hugh Hendry (Burnaw n Residents Group)

Alec Hayden (Trans Consult Co UK)

George McAulay (UK Men's Movement)

Jim Milne (Dundee Accessible Transport Action Group)

Mr Brian Monteith (Mid Scotland and Fife) (Con)

Shona Robison (Dundee East) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

The Chamber

Scottish Parliament

Public Petitions Committee

Wednesday 7 January 2004

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

New Petitions

The Convener (Michael McMahon): Good morning, colleagues and members of the public. Welcome to the first meeting in 2004 of the Public Petitions Committee. I wish everyone a happy new year and look forward to the interesting and varied petitions that we will consider this year.

Justice System (Rape and Other Sexual Offences) (PE688)

The Convener: We kick off with petition PE688, on the treatment of persons charged with rape or other sexual offences. The petition is in the name of George McAulay, on behalf of the UK Men's Movement. The petitioner is calling on the Parliament to introduce a range of measures on the treatment by the justice system of people who are charged with rape or other sexual offences. The petitioner has provided additional material, which was circulated electronically to members before the Christmas break. Mr McAulay is here to give a brief statement to the committee in support of the petition. Welcome to the committee, Mr McAulay. You have three minutes to introduce the subject.

George McAulay (UK Men's Movement): Good morning. We in the UK Men's Movement do not agree with or espouse the claim that all women fantasise about rape and would enjoy it. However, it is a tenet of faith of Glasgow rape crisis centre—formerly Strathclyde rape crisis centre—that all men are potential rapists. I have that here, in the centre's paperwork. The centre is funded and feted by Government and drives through legislation, whereas we in the UK Men's Movement are called extremists.

Some of us have crossed swords before and there is no personal or ideological love lost between us. I lack the diplomacy and persuasive charm of the professional advocate, eschew euphemism and bare my fangs, which makes my task today far easier than the committee's. Members, not I, are the legislators. They must put aside personal dislike and ideology to debate an area of legislation that has enormous consequences for individuals whose fate depends

on their integrity. I am talking about real people, not about statistics.

Scottish National Party members will know Jim Fairley and his wife—they cannot come to today's meeting, because Jim is having a hip operation, but they have asked me to say that they support our petition absolutely. Quack therapists made their daughter mentally ill by constantly implanting the notion that she had been abused by Jim Fairley, but eventually—very belatedly—an investigation proved that to have been impossible. There are even worse casualties than the Fairleys, such as the McLaughlins and the Beatties, whose sons committed suicide, broken by the stress of having their character and reputation publicly destroyed, regardless of the fact that the court convicted the false accuser. Those young lads are the only ones of which we know—there may be more. However, they are male and therefore disposable. No one in authority is counting—is the committee?

The Parliament and the Executive make much noise about their commitment to equality. I have seen little evidence of that when men ask for equality. We ask that the accused, who may be innocent, be given the same anonymity as complainers, who may be malicious. We do not ask for continued anonymity for the guilty or for the naming or punishment of the genuine victim.

When members deliberate, they should take a moment to think of two young lads on the cusp of manhood who should be brimming with the zest, boundless optimism and joie de vivre of youth. They should think of the awful desolation to which those lads were reduced—so despairing that they put a rope around their necks and choked to death. Members should think of the parents who found them and those parents' months of despair and endless years of grieving. I have children whom I love, as members may have. I want my children to outlive me, as members wish their children to outlive them, but that will not happen for the Beatties and the McLaughlins. That is a tragedy that only members can prevent from happening to some other mother's son.

The Convener: Thank you, Mr McAulay. We are joined this morning by Brian Monteith, who has indicated an interest in the petition. Do you have anything to add before we move to questions, Brian?

Mr Brian Monteith (Mid Scotland and Fife) (Con): Yes, convener. Thank you for giving me the opportunity to speak.

Whatever members may think of George McAulay—especially those who in the past have crossed swords with him, as he put it—or the organisation with which he is involved, the UK Men's Movement, and whatever members may

think of the evidence that he has presented to the committee, which they may doubt or challenge, Mr McAulay raises an important issue. For me, the issue is not about gender; it is about power—the power of one individual over another and, by extension, the power that false accusation of a sexual crime as heinous as rape can give to an individual.

When Mr McAulay submitted a petition of a similar nature in 1999, it was rejected. Since then, there have been a number of high-profile examples of false accusations of rape. There is an issue of justice or injustice that needs to be considered. The petition merits discussion. The petition's one flaw is that it is rather long. It makes a number of specific suggestions, but it would be difficult for any committee to pick up all of them. However, within the overall scope of the petition there is merit in either investigating or taking action to determine the extent to which there are false accusations of a sexual nature and whether it would be worth making a change in the law to give anonymity to those who, after all, are meant to be innocent until proven guilty.

The Convener: A petition was submitted previously on a similar issue. Mr McAulay, you have said that circumstances have changed or that other issues have arisen since then. However, did you not say that those who made false accusations were dealt with by the law? Is it not the case that the law as it stands offers the type of protection that you seek?

George McAulay: I am afraid not. The sentence that was imposed on Eilidh Connell, who made a false accusation of rape against Stuart McLaughlin, was for four months' community service. That is risible when compared to the penalty that would have befallen Mr McLaughlin had he been convicted.

I can give many examples—I believe that there are some in our supporting evidence—of police not acting on a patently false accusation of rape. For example, there was a case in France in which no action was taken against a 14-year-old girl who made a false accusation, despite the fact that a girl had been raped and murdered a year earlier in France. A persistent culture in society insists that women should not be held to account. There are many examples of police or prosecuting authorities failing to take action when there is clear evidence of a criminal intent to malign people and to pervert the course of justice.

A political energy exists that encourages rape complainers to come forward. It is wrongly perceived that deterring false accusers would discourage genuine victims from coming forward. It would not. We make no request for genuine victims who fail to secure a conviction to be charged. The standards of evidence that apply to

any crime should apply to cases or charges of false accusation. In many cases, an accused may be found not guilty although he may be guilty, or he may be found not guilty because of a grey area in law. Furthermore, a woman might not have an accurate recollection of events because she had been drunk or for some other reason, so it would be improper to prosecute in such circumstances.

The Convener: I am concerned about some of the things that you have said in relation to what is driving your petition. You keep referring specifically to rape and the issues that surround it. However, equally—

George McAulay: There is a whole gamut of issues, but what drives my petition is simple. I do not know what you are trying to imply, Mr McMahon, but a quest for simple justice is what drives my petition. I want the crime of rape and the dreadful crime of sexual abuse to be taken out of the arena of political zealotry, which has driven prosecutions.

The Convener: That has answered the question of what drives your petition. Do members have further questions?

Carolyn Leckie (Central Scotland) (SSP): I have a couple of questions. I disagree vehemently with the rationale of your petition, Mr McAulay, but I am interested in its possible effect. Given that only 7 per cent of rape allegations result in a conviction and, according to research, loads more rapes go unreported and many rape victims report that the men who raped them were known to them, do you believe that anonymity for alleged perpetrators would increase the conviction rate? Is it your contention that more women would come forward if that was the case? You seemed to suggest that in your previous comments.

George McAulay: I am sorry, but what you are saying is unclear. What are you asking?

Carolyn Leckie: Given that only 7 per cent of rape allegations result in convictions and that research shows that lots of women who have been raped do not even make an allegation—probably because most of the time the man who has raped the woman is known to her either as a family member, friend, neighbour or associate—is it your contention that anonymity for the alleged perpetrators would result in higher conviction rates and more women coming forward?

George McAulay: In a left-handed way, I believe that that could happen. The low conviction rate is due to the weak link in the feminist attempt to use rape as a tool to vilify all men. The low conviction rate results from the decisions of juries, which are composed of men and women. Defence lawyers like to pack juries with women, because women jurors are not as gullible as male jurors

are. As I said, jurors are responsible for the low conviction rates in rape trials.

At the moment, there is a lack of credibility about those who cry rape. If that credibility were to be restored, that would encourage more genuine victims to come forward. I do not want to discourage genuine victims from coming forward to seek justice. A genuine victim has nothing to fear. I want to avoid the dreadful situation in which allegations of rape are being used as a tool of persecution against men, which affects not only men, but women and their extended families. The consequences are huge. Two young boys have died on the end of a rope and their mothers, fathers and siblings have to live with that for the rest of their lives. The matter should be addressed.

10:15

Carolyn Leckie: So what percentage of the 93 per cent of cases that do not lead to convictions involves false allegations?

George McAulay: I have not got a clue, which is why I have asked for the research. I am quite willing to abide by the results of objective and politically untainted research.

Carolyn Leckie: There is lots of research.

George McAulay: Yes, but a lot of that research is tainted. I am sure that everyone around the table knows how research can be manipulated. I am willing to see neutral, quality, objective research into the subject acted on. I do not care whether that is to the detriment of my position. I am before the committee to try to seek justice. Equally, I want justice for genuine victims.

Carolyn Leckie: Are you aware that the anonymity that is given to people who make allegations of rape is given not in law but by convention?

George McAulay: Yes, I know that it is a convention.

Carolyn Leckie: So you are asking for that convention to become law, too?

George McAulay: It would be a good idea to enshrine both in law. We considered posting on our website the name of a patently false accuser who had not been prosecuted, but we decided not to do that. We would rather let the civil process arrive at a just conclusion.

Carolyn Leckie: How many members are in your organisation?

George McAulay: In the region of 400.

Carolyn Leckie: Is that in the United Kingdom as a whole?

George McAulay: Absolutely, yes. Compared with female activism, male activism is small. Is our size in some way detrimental to us?

Carolyn Leckie: I was just asking a question about the facts.

George McAulay: If I had a ha'penny for every time someone approached me in the street and said that they sympathised with me, we would be a rich and big organisation. As I said, compared with female activism, male activism is slight.

The Convener: Okay. Please let us stick to asking and answering questions.

Jackie Baillie (Dumbarton) (Lab): I welcome Mr McAulay to the Public Petitions Committee. I do not think that anyone would support a person who made false allegations, irrespective of the crime. Equally, it is not a desirable outcome for anybody to be taken through our adversarial court system unnecessarily, irrespective of the person's gender.

I want to pursue the point that the convener made about false allegations. Irrespective of the nature of the offence, a false allegation can already be subject to criminal proceedings. Whether criminal proceedings are pursued and, if they are, what sentence is applied are matters for the courts and judges to decide. Do you believe that judges and sheriffs, who value their independence from the Parliament—which is as it should be—and guard it jealously, behave in a politically correct fashion to the extent that they are not acting independently?

George McAulay: Absolutely. The long arm of political correctness reaches everywhere, as you well know. There is a factual inaccuracy in what you say. The prosecuting authorities prosecute with zeal. The Lord Advocate is a political appointee. He can be urged to act and to send out instructions to fiscals and others to act with zeal in the prosecution of accusers who have made patently false allegations of rape. Thanks to Her Majesty's inspectorate of constabulary's report on these issues, and thanks to the political thrust when charges are made, rape complaints are pursued to the point of idiocy. However, even the most ridiculous of complaints count towards the crime figures. That helps to explain the 7 per cent conviction rate. As I said, I have no doubt that guilty men go free. I abhor that as much as anyone else.

Jackie Baillie: What would you do to increase the rate of reporting, and therefore of conviction, in sexual offence cases?

George McAulay: I am not here to increase the rate of reporting. There is a price to pay for justice. If I were the victim of a heinous crime, I would have to report it and face my attacker in open

court. That is as it should be. A special provision of anonymity, and special treatment, are offered to those who have complained of rape. That is to be sensitive to the special nature of the trauma that they have undergone. I think that that is concession enough. Victims of other heinous crimes have no such provision made for them.

Jackie Baillie: I understand that the only group that is protected in law—although I am sure that I will be corrected if I am wrong—is children. Any other protection is by convention only.

George McAulay: Yes, things are done by convention. However, I do not doubt for one moment that, if we broke the convention, Parliament would immediately legislate to make it law.

Jackie Baillie: That would be your view, Mr McAulay.

George McAulay: It would be, yes.

Ms Sandra White (Glasgow) (SNP): Good morning, George.

George McAulay: Might I have a drink of water, please? I am somewhat dry. Does your hospitality extend to a glass of water?

Ms White: I am sure that the clerks' hospitality will extend to a glass of water.

George McAulay: Preferably with no poison.

Ms White: Because of what he has gone through, I have great sympathy for Jim Fairley, as well as for the young men that you mentioned. We have spoken about the convention and the legislation and you agree that anonymity is a convention in relation to women. In your opening remarks, you spoke about people making scurrilous charges of rape, perhaps after having had too much to drink. Would you expand on those remarks? You are saying that, in certain circumstances, women in particular are crying rape when they may have had too much to drink or when they do not know the person particularly well. What is your definition of rape?

George McAulay: My definition is the same as the legal definition: it is the penetration of the vagina, forcibly and against the will of the woman. It is as simple as that. That is rape. I am aware that, at a certain stage of drunkenness, a woman is incapable of giving consent.

Ms White: So, in your eyes, would that constitute rape?

George McAulay: Yes—if the woman does not give her consent, that would constitute rape.

Ms White: That has clarified for me the first point that you made in your opening remarks.

You have been at the committee before—I was a member of the committee then as well—with a

petition that went to the Justice 1 Committee. What do you feel about the Executive's response to that petition, which was that we might open up the floodgates and apply the same thinking to murder cases, for example?

George McAulay: The convention of not reporting, which is codified in law in England, could equally open up the floodgates, with the result that no accuser, in any kind of crime, would be named. That will not happen.

I want to bring in the gender issue. To put it plainly and simply, the majority of the accused—although not all—are men. I think that the situation is inspired by feminist venom—if they cannot get them through the courts, whether they are right or wrong, they will get them by destroying their reputation.

Ms White: Your assumptions are obviously your own. You are very good at assuming what other people think. Talking about the “venom” of feminists is disgraceful and would be disgraceful not just in this committee but in conversation.

The Convener: Sandra, may we have a question rather than a statement?

George McAulay: We are entitled to opinions, I believe.

Ms White: Mr McAulay is making statements.

The Convener: But I want you to ask questions, Sandra.

Ms White: I have asked questions, but because of the way in which Mr McAulay replied, I had to reply, too. I will not bother to ask Mr McAulay any more questions. Personally, I have heard enough from him today.

George McAulay: I am in no way surprised.

Carolyn Leckie: I am sure that George McAulay knows that the majority of allegations of rape are made against men because the majority of perpetrators are men. That has been well proven over the centuries.

I have an important issue that I need to ask about in relation to the Ian Huntley conviction. Ian Huntley was not previously convicted of any crime, but there was a pattern of allegations. How would you reconcile the proposal in the petition with the need to protect children and women from people such as Ian Huntley?

George McAulay: I take your point seriously. I agonised about it and considered abandoning the anonymity part of the petition because of it. The issue troubled me greatly. What happened with the Soham murders was largely a failure of police intelligence, which will be addressed. The same system does not apply in Scotland. The police have considerable intelligence on people within

and outwith their areas whom they perceive as a risk. They cannot take those people to court, because they lack evidence, but that intelligence is good enough in my opinion—I had a Scottish Criminal Record Office check just to go on my son's school trip. SCRO checks do not just investigate criminal records, which militates against the possibility of the situation that we are talking about arising.

In addition, two young boys of whom we know have died as a result of the lack of anonymity. The situation balances out. The thought is horrendous: if I was responsible for a situation that gave rise to anything like the Soham killings, I would take that to the grave with me and have to meet my maker to answer for it. The issue has exercised me greatly, but in Scotland we now have the mechanisms in place to ensure that the situation does not arise.

Mike Watson (Glasgow Cathcart) (Lab): My first question is on a point that Sandra White raised. As she said, the then Minister for Justice's response to your previous petition stated that the floodgates could be opened if anonymity was granted. There is some truth in that. However, if there is a crime that is more serious than rape, it is murder. Why are you not campaigning on similar grounds for people accused of murder? There have been a number of cases of people who have been not just accused but convicted of murder and those convictions have proved to be false. That seems an even more serious issue and I wonder why it is not on your agenda.

George McAulay: Because for some reason society seems to regard rape and child abuse as more damning than murder. There are many murderers who have been acquitted wrongly and there are no mobs outside their homes. They do not have to relocate—

Mike Watson: Sorry, what do you mean when you say that murderers have been acquitted wrongly?

George McAulay: I mean actual murderers who have been wrongly acquitted. The courts have failed to deliver justice on some occasions. There are no mobs outside those people's homes. For some bizarre reason, the taking of a life is not as damaging to a person's reputation as a conviction for sexual offences is.

Mike Watson: That is only true in respect of a sexual offence involving a child. I am not aware of any cases of what you call mob justice where rape was the issue, rather than child abuse. Are you aware of any such cases?

George McAulay: Absolutely. They are mentioned in the petition, if you read the evidence.

Mike Watson: That is not mob justice.

George McAulay: Yes, it was. What happened to the chap in Inverness was mob justice. They fired his house. They mobbed his house. They scrawled "Beast" and "Rapist" on the walls of his house.

Mike Watson: Was that not before the court had considered the issue?

George McAulay: Yes, but if he had not been named it would not have happened.

10:30

Mike Watson: There are real inconsistencies in your argument. It seems to me that you are saying that the way in which society reacts to certain crimes should be the basis on which anonymity is granted. If you were starting with murder and working down, there might be an argument, but by starting at the level at which you are starting you lack credibility.

George McAulay: In the case of an attempted murder that leaves someone grievously wounded for the rest of their life, the accuser would not be granted anonymity; they would have to go and give evidence against the individual who tried to murder them. However, because rape happens only to women, a special case is made for women. Someone could be terrorised by gangsters—

Mike Watson: We have dealt with that. That is a convention rather than a firm legal position. You have referred to the two sad cases of suicide. I do not detract from the seriousness of those cases, but there must have been cases—I do not have the statistics at my fingertips—in which women committed suicide after they made an allegation of rape and the man was found not guilty. Do you have any statistics on that?

George McAulay: I have no statistics on that.

Mike Watson: Have you sought statistics on it?

George McAulay: I imagine that it occurs.

Mike Watson: Why did you not do the same research into that as you did into men who have committed suicide?

George McAulay: It is not relevant to what the petition is asking for.

Mike Watson: It is not on the agenda that your organisation pursues, is it?

George McAulay: Do not try to imply that I am unconcerned about the deaths—

Mike Watson: I was not talking about you; I was talking about the agenda of the UK Men's Movement. The issue of women committing suicide as a result of rape cases is not on the organisation's agenda, is it? Yes or no?

George McAulay: Our agenda is to put forward men's issues, mainly family issues.

Mike Watson: I will take that as a no.

George McAulay: We are underfunded and undermanned and we cannot do everything.

Mike Watson: That answer is clear.

The Convener: I seek recommendations on what to do with the petition. We have to bear in mind the fact that a similar petition was lodged and addressed by the previous Justice 1 Committee. Members have referred to the outcome of that petition. I have asked Mr McAulay whether anything has changed in the interim. He has given examples of cases in which young men have committed suicide. However, he also highlighted the fact that in both those cases the justice system dealt with the people who made the false accusations.

George McAulay: It dealt with only one.

The Convener: Excuse me, Mr McAulay—I am talking to my colleagues. I seek recommendations about what to do with the petition, given the information that we have received and given the petition's previous passage through the Parliament in another guise.

Ms White: I recommend that we take no further action on the petition.

The Convener: Do members agree with that recommendation?

Members *indicated agreement.*

The Convener: Thank you.

George McAulay: I am in no way surprised. I thank Brian Monteith.

Forestry Commission (Consultation Guidance) (PE691)

The Convener: Our next petition, on the Forestry Commission guidance on consultations, is by Boyd Calder, on behalf of Burnawn Residents Group. The petition calls on the Parliament to investigate the Forestry Commission's implementation of its guidance on consulting those residing near areas of widespread logging, drainage and planting activity. Mr Calder is here with Hugh Hendry to give a brief statement to the committee in support of the petition. Welcome to the committee, gentlemen. You have three minutes to make opening remarks, after which we will ask questions.

Boyd Calder (Burnawn Residents Group): We are here to represent the Burnawn Residents Group. We put it to the committee that we have been misled by the Forestry Commission on various matters. I have five points, which I hope

will be succinct enough to allow you to get your head around what we are trying to say.

First, there has been mismanagement, a lack of adherence to scoping-meeting guidelines and a lack of information on forest-plan scoping exercises with the local residents.

Secondly, there was late notification to our group of the withdrawal from the forest plan. That withdrawal led to a lack of supervision of the clear fell areas and allowed the applicant to ignore Forestry Commission guidelines. The late notification to our group led to a late realisation that we have no input to the replanting densities or the drainage of the clear fell area, and we now have a lack of answers to detailed questions concerning the clear fell areas.

Thirdly, on the reapplication of the plan for new planting in our area, the Forestry Commission stated that community council consultation would take place only after an environmental impact assessment had been submitted and agreed and that our group would be consulted. Although a meeting with the community council has taken place, our group was neither informed about it nor invited to it. As far as we know, the Forestry Commission has yet to find the environmental impact statement acceptable.

Fourthly, despite assurances that we would be kept aware of any developments in our area, the Forestry Commission has neither informed nor involved our group. Although our group sent numerous letters containing detailed questions to all levels in the commission, we received only general replies and then only after we had enlisted the help of various other bodies and people, including our MSP. Some of our letters have still not been answered.

Fifthly, we request that the committee obtains the complete and detailed documentation that we asked for on the clear-felled area's permissions and grants and that it endeavours to make the Forestry Commission keep its word and be much more proactive about involving and informing local residents.

Mike Watson: You said that some of the group's letters remain unanswered. The petition mentions a number of organisations: three elected representatives, including the Minister for the Environment and Rural Development; a local authority; and community councils. Which of those organisations has responded and—perhaps more important—which of them has responded positively?

Boyd Calder: Everyone listed in the petition has responded with varying degrees of positive attitude—if I can put it that way. Most of the questions that we initially asked those people and organisations were meant to outline what we stood

for as a residents group with major forestry activity about to happen on our very doorstep. Many responded by saying that they were aware of our existence, that they would keep us informed and that, as time went on, we would be included on the list of bodies they would inform if anything happened. Unfortunately, that is as far as it has gone with most of them.

We are not denying that the Forestry Commission itself responds to letters; however, it tends to take quite a long time and never seems to provide the detail that we ask for. When we ask the commission very detailed questions, seek public access records, want to know dates of things and so on, we simply receive a letter—I remember one in particular that came via Margaret Jamieson MSP—that is so general that it does not answer any of our questions. That always seems to be the case.

By ignoring us, the Forestry Commission has in effect given carte blanche to the applicant. The applicant got the original grant for clear felling from the commission, and the applicant must submit to the commission the application for new planting. There has been no supervision. Various things have happened and the commission just does not want to have anything to do with it.

Mike Watson: The wording of the petition suggests that you think that the Forestry Commission's guidelines are robust enough to deal with such issues, but that how they are applied does not allow that to happen. Do you think that the guidelines should be strengthened?

Boyd Calder: Specific points of the guidelines could almost be made statutory requirements. For example, people who receive grants could be required to do this or that. As the guidelines are quite widely available and easy even for a layman like me to understand, one might imagine that it would be very easy for forestry professionals to stick to very basic points such as how deep a ditch should be; how much water can come off a ditch; how close a tree can be planted to a water source; and to follow guidelines that make it clear that ditches cannot be connected to any water source that goes into a river. In fact, people would follow such simple guidelines if they were carrying out similar works and did not want to pollute their garden pond. The Forestry Commission has given a big woodland company the go-ahead to carry out these works and the commission's guidelines have been blatantly ignored. There has been no supervision to find out whether the guidelines have been followed and the company has not followed one iota of them.

I am sorry if that has not answered your question.

Mike Watson: I am not clear whether your petition is about following the guidelines, the guidelines being strengthened or, as you seemed to suggest a moment or two ago, making the guidelines compulsory, rather than just advisory.

Boyd Calder: In certain instances, I would like following the guidelines to be a condition of a company's getting a grant. In general, the guidelines are pretty straightforward and common sense. However, as far as our petition is concerned, the Forestry Commission, for whatever reason, has not ensured that they have been followed.

John Scott (Ayr) (Con): How close are you as a residents group to the damage that has been perpetrated as a result of the guidelines not being followed, and what is that damage?

Boyd Calder: We form quite a tight geographical unit, which is centred on a small valley. The local river is the Burnawn; hence the name of our group. The hills come up on both sides of the river, and there is quite a lot of forestry. The area was traditionally owned by a big estate, of which all the land round about was a part, but over the past four or five years, the estate has been split up and various people have bought the land.

There was standing timber—that is what most of our complaint is about—which was nearly ready for harvesting and it was clear felled; that is, every tree was cut down. That impacted on us in various ways, because we were all very close to the activity. There is only one road that leads past the site, and it leads past most of our houses; most of us look on to the site; and many of us have been affected by lorries breaking up the road, and by flooding because of the silting up of ditches. There is also the environmental point of view. We are all quite interested in wildlife and, because of the lack of adherence to the guidelines, we have seen hedgerows being pulled down and timber being stacked on the road on top of mature trees and hedges.

The activity has impacted on us considerably over the past two years. The new-plant application has yet to be reapplied for, but it was part of the original forest plan, which included the area that has been clear felled. If the company goes ahead with the new planting, that would impact on us even more and we would have all the same problems. The environmental impact statement for which we called, which has been taken up in part, has outlined the unique nature of the area.

John Scott: I am still not clear what guidelines have not been followed. The company must have a felling licence to cut down the timber, which, after all, is a crop. You must have been aware that the timber would be felled at some time, because

that is the point of growing it in the first place. The only thing that you have told me that does not comply with the felling licence is, probably, allowing ditches to be silted up, which might have damaged your area in some way. Other than that, the company will be obliged to reinstate, replant and make good the damage that it has done during the felling, will it not?

Boyd Calder: As a local group, we were involved only right at the start when the applicant, who went to the Forestry Commission to get the grants, signed up to what is called a forest plan. Under the Forestry Commission guidelines, there is a facility for local input into the forest plan on, for example, the density of planting, time scales for felling and whether all the timber should be cut down at one time or the felling be staged and structured. There should be all sorts of inputs that—it is hoped—will help the applicant to work within Forestry Commission guidelines.

John Scott: Are we talking about a community forest, so to speak, of which you have had ownership in some tenuous way, rather than a purely commercial enterprise?

10:45

Boyd Calder: No. We are talking about a purely commercial enterprise. The applicant decided to go down the route that I have described only because the area was of a sufficient size. That route took them from an ordinary woodland grant scheme into the forest plan scheme, which widened things out. The applicant had existing woodlands, newly planted areas and so on. As the plan fell into the forest plan scheme, others—not only the statutory bodies—had to have an input into the shape of that plan. That is why our residents group was initially involved.

One of our complaints, which again relates to the Forestry Commission, is that we went through the whole process and—

John Scott: So, to attract a different level of grant funding, I presume that an input from your group was required, but you have not had an input.

Boyd Calder: Yes. The size of the plan warranted input from local residents and community councils, for example. There were two scoping meetings, one of which was a total shambles—there was no supervision or guidance and we refused to call the meeting a scoping meeting. Many points were raised at the second scoping meeting, which a Forestry Commission representative and the applicant—Scottish Woodlands Ltd—attended.

An issue that I have omitted to mention, but which impacted on us, is that virtually all the

properties have a private water supply that comes either from gathered surface water or springs. As I said, the area was part of a huge estate. At one time, many of the properties were interconnected, but they have become private residences—farms, houses or whatever. We were greatly worried that anyone who started to dig ditches or pull down trees, for example, would impact on the quality of the water supply and indeed, whether there would be any water at all as a result of such activity. We have read about what has happened in other places and we wanted representation to let the applicant know that we were concerned about that matter. We were co-opted into the process and started the process of scoping.

As I said, many points were raised by the local residents and put to the applicant and the Forestry Commission. The Forestry Commission has produced a guideline booklet that says what the process should involve and at what stage things should happen, but things never happened. Eventually—about three or four months down the line—we were told that the applicant had pulled out of the forest plan and that the residents group would have absolutely no input into what was happening in the area. We were totally astounded. Like many people, we assumed that forestry procedures would be like planning procedures. If a person tries to put up a garden shed, they must get planning permission and talk to their neighbours and the application must be passed by a planning committee. They must go through the process. We were absolutely shocked to find that we would have no input at all. We could wake up to find that the place had been planted and in 15 years a wall of green would surround us.

Since then, we have had doubts about whether the Forestry Commission has followed its own due processes in respect of time scales for the felling licences that were granted, for example. We have asked to see documentation so that our fears can be allayed. We want to know whether, in certain areas, a felling licence has been granted, whether time scales have been correct and whether licences have been granted after certain times. We want peace of mind through knowing that processes have been gone through properly, but we have been unable to get many documents sent to us. That takes us back to the detail. We do not want to be patted on the head and told that everything is all right. You might call us cynical, but we simply want to know whether things have been done in the proper way.

Linda Fabiani (Central Scotland) (SNP): I think that you have more or less answered what I was about to ask you. Is the basic issue that you are not at all convinced that the Forestry Commission has adhered to its own guidelines on discussing with residents what was going on? You have not been able to find that out and you are asking the

Parliament to find out whether the Forestry Commission adheres to its own guidance.

Boyd Calder: That sums up the issue in a nutshell. We are just ordinary people who happened to wake up one day to find out that all the work in question was going to be happening around us. We have simply been trying to get information from a statutory body that was set up specifically to provide such information. As ordinary people, we do not feel that we are getting that at all.

Linda Fabiani: I think that we should try to find out what the relevant guidelines are and to seek the Executive's and the Forestry Commission's views on how the Forestry Commission adheres to them in general, rather than in the specific case that we are considering, because it is often difficult to single out one case. When we receive that information, we can consider the petition further.

The Convener: I will take that as a recommendation.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning. I am most surprised to hear the comments that are made in your petition, because I live in an area that is extensively managed by the Forestry Commission and, in my experience, it has worked completely in harmony with the environment and the local population. However, as you point out, that may not be the case in all circumstances. Is the plantation to which you are referring a Forestry Commission plantation or is it privately owned?

Boyd Calder: That is the whole problem; it is not a Forestry Commission plantation. To my mind, the basic problem lies in the fact that the Forestry Commission seems to be about trying to do two things. It obviously has the remit of planting trees properly and effectively and so on, but it also has the role of acting as a grant-giving body that supplies private individuals, private landowners or forestry companies with grants to allow them to undertake activities such as the development of plantations and cutting.

We are talking about a private plantation. It is managed by a company called Scottish Woodlands for a chap called Mr Kerr, who is a sawmill owner in the Annan area. I do not have a problem with that; Scottish Woodlands has a very high reputation in the industry. However, our experience has been that, because of the lack of adherence to the guidelines that the Forestry Commission sets for successful grant applicants, we have been left at the mercy of a private company that is not adhering to those guidelines.

John Farquhar Munro: In fact, it would be unfair to accuse the Forestry Commission of not being vigilant in what it does if another forest developer, such as Scottish Woodlands, Forest

Enterprise or Economic Forestry, comes in. Does the Forestry Commission have control over what such organisations undertake?

Boyd Calder: In theory it does, because if the company has not adhered to the guidelines on planting densities or the length of time for which the trees have survived, for example, the Forestry Commission has the power to reclaim the grant in question.

John Farquhar Munro: Do you think that the case to which your petition relates is an isolated incident?

Boyd Calder: We do not know; from hearsay, the web and people to whom we have talked who have had dealings with the Forestry Commission—not so much in cases in which the Forestry Commission has been in charge of the whole process, but in cases in which it has handed over to a company that has applied for grants—there seem to have been many similar problems.

John Scott: Did I hear correctly that you said that Scottish Woodlands had applied for a different sort of grant but withdrew from that scheme after a few months? I presume that, once it had withdrawn from that scheme, its obligations under the scheme would have fallen, as it would no longer have qualified for the increased level of grant. Therefore, it would appear that it would have been under no obligation to provide the information that you seek. Is that correct?

Boyd Calder: I do not think so. The information that we ask for is the date on which Scottish Woodlands was given that grant. We contend that when the company pulled out of the forest plan, a felling licence had not been granted for parts of the clear-felled areas, but the grant was en masse for one big forest block. When the company withdrew from the forest plan, we feel that it fell back on existing felling licences and replanting licences for some areas, but not for all of them. If so, that should have been reposted on the Forestry Commission's web application site, which would have given us at least the chance to find out what was happening and to object if we felt that a valid objection could be made. One reason why we want to see the documentation is to assure ourselves that that did not happen.

Ms White: I will try to be brief, but I have several questions. You said that because the forest plan was sizeable the applicant had to involve your group and others. Is that a statutory duty, or is such involvement voluntary, as the company has withdrawn from the plan?

Boyd Calder: I think that that involvement was statutory.

Hugh Hendry (Burnawn Residents Group):

The scoping was statutory because of the forest plan.

Boyd Calder: It was statutory because it was in the forest plan. That is part of the process of entering into a forest plan.

Ms White: That clarifies the situation.

How many members does the residents group have?

Boyd Calder: The group has about 18 members. We have widened our base and gained much support by attending local community councils. We have extensively circulated a petition with a mailer with which we have gone into the valley villages, too. We have gained much support, if not many members.

Ms White: That practically answers my next question. You mentioned that the Forestry Commission had held meetings with a community council, which must be involved by statute. Does that council have the same concerns as the residents group has? Has it raised objections or concerns as a statutory consultee? Does the community council agree with the residents group?

Boyd Calder: The valley is set up such that three towns are close to us. We are a wee bit out of it—we are 3 miles up a hill, rather than right next to the towns of Galston, Newmilns and Darvel. The Galston and Darvel community councils have been very much of our opinion, because they are closer to the area. Scottish Woodlands took the contested reapplication plan with the environmental impact survey that the Forestry Commission did not accept to Newmilns community council, which is neither up nor down with the subject.

As I said, the area is geographically removed from the community councils. As the area is up a hill, the only people who come up from the towns—although we have quite a lot of them—are dedicated walkers, because it is not an easy stroll, but a dedicated walk up a hill. An awful lot of them did not know where the planting would take place.

Ms White: That is fine. I just wanted to know whether the community councils agreed with you.

The Convener: Linda Fabiani recommended that we should write to the Executive for clarification. As no one suggests any enhancement of that, are we satisfied that that will be sufficient to deal with the petition?

Members indicated agreement.

The Convener: We will take up the subject with the Scottish Executive.

Boyd Calder: Thank you for your time.

Disabled People (Local Transport) (PE695)

The Convener: Petition PE695, which is on local transport for disabled people, is in the name of Jan Goodall, on behalf of the Dundee accessible transport action group. The petition calls on the Parliament to ensure that local authorities make available affordable and accessible local transport to disabled people who cannot use public transport and to ensure that ring-fenced funding is provided to allow local authority and/or community groups to provide dial-a-ride projects for that purpose. Ms Goodall is present with Jim Milne and Raymond Gerrard to give a brief statement in support of the petition. They have three minutes, after which we will ask questions.

11:00

Jan Goodall (Dundee Accessible Transport Action Group): The mobility and access committee for Scotland—MACS—has a vision of a Scotland where anyone with a mobility problem that results from a physical, mental or sensory impairment has the information and opportunities to go when and where everyone else can. At present, transport poverty—the high cost of transport as a proportion of a low income—makes that vision a distant dream. The petition is about social justice, social inclusion and the practical measures that will be needed to make MACS's vision a reality.

I have five points. First, since October 2002, elderly and disabled people who hold concessionary bus passes have enjoyed free bus travel and the Scottish Executive is providing millions of pounds to enable local authorities to pay for that. Secondly, that scheme is of no benefit to people who are physically unable to use buses and who often cannot walk to, or wheel themselves as far as, the nearest bus stop. In fact, those people's transport disadvantage has increased. In many areas, if people require door-to-door transport, they must use taxis or stay at home. Some not-for-profit dial-a-ride schemes exist in Scotland, such as the dial-a-journey scheme in the districts of Stirling, Falkirk and Clackmannan. Thirdly, many elderly and disabled people who are on low incomes suffer exclusion from the ordinary activities of life as a result of the cost of transport.

Fourthly, DATAG has corresponded with the Scottish Executive about the social injustice of failing to provide subsidy for affordable and accessible transport for citizens who have severe mobility problems. That culminated in a statement in October 2002 by the then Deputy Minister for Enterprise, Transport and Lifelong Learning that it is entirely up to local authorities to decide whether to provide a subsidy. As central Government

imposed free concessionary travel on local authorities, that stance has an astonishing lack of logic. The stance is also discriminatory, because different principles are being applied to subsidy for people who can use buses and to subsidy for those who cannot. From the perspective of the disabled person wishing to travel, the result is a postcode lottery of service provision. In some areas, affordable and accessible transport is readily available; in other places, it does not exist.

Finally, the Scottish Executive currently supports two research studies on the transport needs of disabled people; one is by Capability Scotland and the other is by Reid Howie Associates Ltd. I believe that the results will strengthen DATAG's case that all local authorities should be required to ensure that at least three subsidised return trips per week are available and that central Government should provide ring-fenced funds so that not-for-profit community transport schemes can be developed for that purpose.

The Convener: We have been joined by Shona Robison, who has an interest in the issue. Do you have anything to add, Shona?

Shona Robison (Dundee East) (SNP): I back the petitioners' call. Jan Goodall's key point is that there is a postcode lottery of service provision. Some local authorities have good schemes, such as dial-a-ride schemes, but others have none. We must address the unfortunate situation that a city the size of Dundee has no such schemes. The point has been well made that the focus has been on the concessionary travel scheme, but the thousands of people who cannot access public transport are excluded from that scheme. I hope that the committee will press the Executive on what it is doing and some of the research that is going on and try to find out whether the Executive will produce proposals that will fill the gap that clearly exists.

The Convener: Do members have questions for the petitioners?

Carolyn Leckie: Good morning. I have a couple of questions. Excuse my cough—I am loaded with the cold. Your petition seems to be quite modest in what it asks for; you talked about a minimum of three journeys per week. How does that aspiration sit with commitments under the Disability Discrimination Act 1995? I do not know enough of the detail, but have you examined the relationship between rights and what is available? On its rural community transport initiative, the Executive states:

"A total of £8.1 million has been awarded to 132 projects through the initiative."

Have you quantified the resources that are required to deliver disabled people's right to

access a journey of their choice when they need it?

Jan Goodall: No, we have not. We are a small campaigning group and we do not have the resources to do that, but you could easily find out the costs that are involved from the operators of the dial-a-journey scheme. I do not believe that there should be a limit on the number of journeys. I mentioned three journeys per week only because we in Dundee get one subsidised return trip by taxi per week, and the subsidy has not been changed since 1996 so inflation has eroded it. However, such journeys are expensive to provide and I did not want to ask for the moon. I ask for an improvement, and from our perspective, three journeys per week would be a big improvement.

Carolyn Leckie: Have you examined the Disability Discrimination Act 1995? The act's regulations in relation to hospitals, hotels and so on came into force in October. How do they relate to transport?

Jan Goodall: The arrangements for access to transport are a bit different. My point is that there is no point in making public buildings and other buildings accessible if people cannot reach them because they do not have the transport to get there. People are excluded from educational opportunities, leisure opportunities, socialising and shopping because of the cost of transport. They might go out only once a week even though they would prefer to go out three or more times per week.

Linda Fabiani: The information that we have been given states that the Executive has sponsored a pilot demand-responsive transport scheme in Angus. I presume that you are aware of that, as Angus is your neighbouring authority. Will you give us an idea of how that scheme works, and whether it is along the lines of the scheme that you seek?

Jan Goodall: It certainly is. I do not know the details of the Angus scheme, but we have a vision of demand-responsive transport for disabled people being integrated with demand-responsive transport for anyone else who does not have access to a bus service—parts of Dundee have no bus service in the evenings and on Sundays. The two needs could be related and integrated—ideally, it would be good to have a non-segregated service for disabled people.

Jackie Baillie: You said that you have approached Dundee City Council.

Jan Goodall: Yes.

Jackie Baillie: What attitude did you find there?

Jan Goodall: Dundee City Council has never given priority to transport, but it is beginning to talk to us more actively. We have made two

applications to the lottery for a dial-a-ride scheme, both of which failed. The council was interested in the most recent application—it thought that there was money coming into the area, so it was supportive. When the lottery bid failed, all interest from the council also failed.

Jackie Baillie: Has the council's interest completely gone?

Jan Goodall: No. Its interest and efforts are reviving because of the Disability Discrimination Act 1995, but it talks about the long term. We have been campaigning for 12 years.

Jackie Baillie: I understand the need to move swiftly on many things. One of the comments that is posted on the e-petitions site makes the point that the answer is not dial-a-ride schemes but mainstream provision and ensuring that transport is fully accessible, as the act sets out. That includes not only the transport itself but getting to the transport; in my area, the trains are accessible, but the train stations are not. We must take an holistic view. Do you agree with that aspiration and that assessment?

Jan Goodall: I understand why the idealistic point is being proposed. However, we are talking about people with severe mobility problems, who can travel only from door to door. I cannot envisage how public transport can be provided from door to door. Taxis are an exception, but they are prohibitively expensive for people on a low income.

John Scott: Jackie Baillie touched on the point that I want to raise, which is about improving disabled access to trains. Carers groups in my constituency believe that trains should be part of access schemes. I am interested in Jan Goodall's views on the worth of using trains to provide a service that is similar to what buses provide—although buses are often inaccessible to disabled people.

Jan Goodall: We are focusing on local transport, which normally means buses. A dial-a-ride scheme would take people to a train station or bus station. At present, it is difficult for disabled people to access those places. I hope that that answers your question.

John Scott: Are you in favour of extending the scheme to trains, if that were possible?

Jan Goodall: We are talking about ringing up and booking a journey for an individual. I cannot envisage how that would apply to trains, which must run to a timetable.

John Scott: We are talking at cross-purposes.

Ms White: I have a brief question. I had a question about Dundee City Council, but it has been answered. My question may not take in the

whole of Dundee, but has any move been made to access funds for areas that are covered by social inclusion partnerships to start a dial-a-bus service, which has been done successfully in Glasgow?

Jan Goodall: We have SIP money for a sheltered housing shoppers bus scheme, which uses commercially run buses that do school contracts in the mornings and afternoons. We use the gap between those times for our bus scheme. Although it is limited, it is a beginning. Each sheltered housing complex gets use of the bus once a week. There is no choice of when to travel.

The Convener: Do members have recommendations on what to do with the petition?

Jackie Baillie: I suggest that we write to the Executive to find out what it is doing to expand access to schemes such as dial-a-ride and dial-a-bus. The Minister for Transport made an announcement on the subject on 16 September 2003, but there has been no more recent announcement. Therefore, in the context of the petition, it might be worth pursuing what the Executive is doing.

Linda Fabiani: I have two further points. First, I suggest that we ask the Executive specifically about urban settings. When we talk about schemes such as dial-a-ride, people often assume that only rural areas need them. Secondly, I am interested in the pilot scheme in Angus and Aberdeenshire. I suggest that we ask the Executive how that is going and to what areas and when it will be extended.

Carolyn Leckie: I agree that we should ask the Executive those questions, but I suspect that we will find that there will be different provision in different areas. I believe that the Executive made a clear commitment to the universal provision and resourcing of schemes rather than to the incremental provision of pilot schemes. We should write to the Executive, but I believe that further vigorous pursuit of the political issues will be required. I support universal provision with adequate resources. That is what we need. I am not sure how much further forward the Executive's response to our questions will take us.

The Convener: Are members happy to ask the Executive the suggested questions to try to get the information that the petitioners require?

Members indicated agreement.

Jim Milne (Dundee Accessible Transport Action Group): I have a further point. We have focused during the discussion on the role of local authorities. It is fair to say that the flexibility that local authorities enjoy in the provision of accessible transport for disabled people has failed disabled people. We hope that the committee will ask the Executive what it intends to do to bring

more standardised regulations to bear on local authorities. We want standard regulations not only to encourage local authorities to provide services for disabled people but to ensure that local authorities are in line with the Executive's social justice agenda, so that people will not be isolated in their own homes and that services will be available to allow disabled people to play an active part in normal life. Local authorities must be instructed rather than encouraged.

11:15

The Convener: I do not think that the committee would have any difficulty making that a specific part of the letter to the Executive. Thank you very much for your attendance.

Traffic Commissioners (PE692)

The Convener: In a slight change to our agenda this morning, the next petition is PE692, which is on traffic commissioners and is in the name of Alec Hayden, on behalf of Trans Consult Co UK. It calls on the Scottish Parliament to investigate the Executive's role in the appointment of the Scottish traffic commissioner and consider whether road freight and passenger transport should be the responsibility of the Scottish Parliament and whether it can debate alleged discrimination against Scottish businesses by traffic commissioners. The principal petitioner, Mr Hayden, is present to give a brief statement. Mr Hayden, you have three minutes and then we will ask questions.

Alec Hayden (Trans Consult Co UK): The best way for me to start is to give you the background to how Trans Consult evolved. It was set up to assist smaller vehicle operators, such as farmers, fishermen and small manufacturers who need to run vehicles under the operators' licensing system. We also set up the same system for dangerous goods safety advisers. Three or four years ago, the Scottish traffic commissioner, Michael Betts, sent a directive to all traffic commissioners in England saying that having part-time transport managers was illegal and was not needed or wanted. The commissioners in Scotland and England started a campaign to discriminate against part-time transport managers. They stated clearly in the press and at many public inquiries that a transport manager must be employed and paid directly by the operator. Trans Consult is a management services company that administers the application for the licences and the on-going protection of the licence. If a client of ours is having difficulties, we are able to help them and see them through those difficulties.

After writing many letters to all commissioners over the past two years asking for guidance and constructive criticism, we have come up against a

brick wall. At the beginning of the year, we started lobbying the Scottish Parliament, Westminster and Brussels and it is fortunate that we have gained good support from different parties. Mrs de Palacio, who is the traffic commissioner for the European Parliament, stated clearly in June or July last year that there was nothing in EU directive 96/26 or in the Goods Vehicle (Licensing of Operators) Act 1995 that states that a transport manager must be employed by the operator. Even so, we continue to face the same problems. I have on my books 20 Scottish transport managers who wish to find work as part-time transport managers, looking after small businesses with one or two vehicles. They would be able to do that for many operators. We have large operators in this country with hundreds and hundreds of vehicles that have one person running them from one remote part of the country.

The Dutch courts and the European Commission both confirmed that two operators' licences in Holland were legal and proper. One of the transport managers lived in London and the other lived in Scotland. We are not allowed to put transport managers in place if they are based more than an hour away and every time we offer the services of independent self-employed transport managers, they are turned down or brought to public inquiry. We have administered in excess of 500 operators' licences. Not one of our operators has ever been brought before a public inquiry for disciplinary reasons to do with maintenance of hours and records on tachographs and so on. Every time that operators are called to a public inquiry, it costs the public purse about £7,500. The situation is frivolous and illegal.

The Convener: Thank you for your evidence. Before members ask questions, I should point out that many of the areas to which Mr Hayden has referred are reserved or specific to his company. However, his petition talks about the Scottish Executive's role in the appointment of the traffic commissioner, which is not a reserved issue. Only those issues that relate specifically to freight are reserved, so it is legitimate for us to discuss the petition.

Jackie Baillie: I thank the convener for that clarification, because I wondered what the petition was doing in the Scottish Parliament.

I want to pursue the petition's first point, which asks that we investigate the Scottish Executive's role in the appointment of the Scottish traffic commissioner. As I understand it, responsibility for the appointment lies with the Secretary of State for Transport down in Westminster. From our perspective, the Executive simply nominates an official to sit on the interview panel. Why does that not meet with your approval?

Alec Hayden: The other candidates for the post of Scottish traffic commissioner did not, I believe, have the support of the Scottish Executive. I understand that the current Scottish traffic commissioner has had several roles within the Government, ranging from being a failed electoral candidate through to sitting on an employment tribunal, being a prison complaints commissioner and now being transport commissioner. That is not a personal opinion whatsoever.

If this country needs traffic commissioners, they should be fully qualified in transport. They should understand the workings of freight and passenger transport systems. They should understand the difficulties that hauliers, farmers, fishermen and others face on the roads and the difficulties that they have with the licensing systems.

The punishments for small businessmen are very harsh. I have seen many operators who, after investing many thousands of pounds, have been messed around for months before a simple licence was put in place.

Jackie Baillie: I note that the traffic commissioner is also responsible for passenger transport. Is that right?

Alec Hayden: Yes. The commissioner is responsible for passenger transport.

Jackie Baillie: I just wanted to clarify that the range of the transport commissioner's duties goes much wider than just freight.

Alec Hayden: Yes, although the commissioner does not deal a lot with passenger transport. He deals mainly with road haulage and goods vehicles.

Jackie Baillie: It is also the case that all public appointments, irrespective of which body the appointment is to, are governed by a code of practice that is monitored by independent commissioners for public appointments. There is a huge amount of transparent scrutiny of the process, in which politicians are—quite properly—not involved. Does that give you any comfort?

Alec Hayden: No. One of the biggest problems with the traffic commissioners' remit is that there is no proper appeals system. In any other walk of life that I know of, people can go through an appeal and adjudication system if they think that a wrong decision has been made. That is not the case for the operators' licensing system, especially in Scotland.

I am not a lawyer or an advocate or barrister, but during our eight years of campaigning we have simply represented the damaging situation concerning the remits of the commissioners and of the Transport Tribunal. The Transport Tribunal says that it is part of the court services, but it is not; nor is it part of the Department for

Constitutional Affairs. We also have a situation in which we have a Lord Chancellor who is not Lord Chancellor. Instead, we have an elected member who is leader of the Department for Constitutional Affairs who is not a Queen's counsel.

If an operator in Scotland wishes to appeal the transport commissioner's decision, he is told to make that appeal through the Scottish Executive and the Secretary of State for Scotland. However, the Secretary of State for Scotland is the person who wears three hats, as he is also Secretary of State for Transport. We feel that there is a conflict of interest involved in that.

Jackie Baillie: Like you, I am not a lawyer, an advocate or a barrister, but I wonder whether this might not be a matter that ultimately rests on appeals in the courts.

Alec Hayden: Operators do not have the ability to go to the courts. If a wrong decision has been made, the only place where they can go is to the Transport Tribunal, which costs around £15,000. If the decision of the commissioner is upheld, the operator will walk away without their licence and livelihood. If it is not upheld, it will still have cost them £15,000 to appeal a decision by someone who is not part of the judiciary.

Linda Fabiani: Earlier, you said that the transport commissioner should be fully qualified in aspects of freight and so on. Is a similar level of expertise required of the other traffic commissioners?

You also said that your problem with that appointment was that the Scottish Executive person who sat on the board was not happy with other applicants. Are you saying that the Executive had decided who they wanted in place in Scotland and that there was therefore no point in anyone else applying?

Alec Hayden: I understand that the present commissioner for Scotland was endorsed by the Executive and that no other applicant was. A colleague of mine applied and was not afforded the same privilege.

What was your first question, again?

Linda Fabiani: I might have picked you up wrongly, but I think that you said that the commissioner for Scotland should be a fully qualified and experienced person. Is that the case for the six commissioners in England?

Alec Hayden: None of the commissioners comes from a transport background apart from the commissioner for the eastern counties, who sits in Cambridge. Some are solicitors—

Linda Fabiani: So the situation in Scotland is no different from that in the rest of the UK.

Alec Hayden: That is correct.

John Farquhar Munro: The petition that you have presented makes some interesting comments, but I wonder whether it is quite up to speed with the current situation. You say that buses are allowed to be overcrowded with children due to the “three for two” policy.

The Convener: John, that is a different petition. As I pointed out, we have changed the order in which we are dealing with the petitions today. We are dealing with PE692 at the moment.

John Farquhar Munro: The suggestion that schoolchildren should at all times be transported—

The Convener: John, we are dealing with a different petition. We have changed the order in which we are dealing with the petitions. At the moment, we are dealing with PE692. We will deal with the petition on school transport next.

John Farquhar Munro: I see. I beg your pardon.

Carolyn Leckie: This petition highlights a bizarre effect of the workings of the Scotland Act 1998 in relation to who is responsible for what and so on. You said that the Scottish Executive had a representative on the interview panel and that appeals would be made to the Scottish Executive and the Secretary of State for Scotland. To help me understand the matter better, could you comment further on the lines of accountability and so on? If this is a reserved matter but there is Scottish Executive participation at various levels, to what extent is the process accountable to the Scottish Parliament?

11:30

Alec Hayden: That is one of the conundrums that we uncovered some months ago. In England, appeals are heard at the Transport Tribunal. We have been told in writing by the Transport Tribunal that Scottish hauliers must appeal to the Scottish Executive and the Secretary of State for Scotland. Since devolution, a judge has come from London to Edinburgh to hear appeals—once they are ready to be heard, which is three months down the road—sitting at the Lands Tribunal for Scotland. I understand that the president of the Transport Tribunal cannot sit in Edinburgh, because the matters are devolved. In that case, the Transport Tribunal appeals that have been heard since devolution may possibly have been illegal. The person who has made the decisions has not in fact had the power to make those decisions. That is the problem in Scotland.

We have had correspondence from the Court Service, which now maintains that it has absolutely nothing to do with the Transport Tribunal, yet that correspondence was on Transport Tribunal-headed notepaper, from

Chancery Lane in London. The Court Service is responsible for the traffic commissioners, yet it now states that it is not responsible for the Transport Tribunal. A new phrase came to our attention only a few days ago: “the tribunal group directorate”. I had never heard of that before—that is a new one on me.

I have a note here from 5 January, which says that we spoke to Alan Wells of the Court Service’s customer services department in London. As the note says, we were advised that the Transport Tribunal is nothing to do with the Court Service. It goes on to say that the Transport Tribunal is administered and controlled by the tribunal group directorate. That begs the question whether the Transport Tribunal at Chancery Lane has powers over Scottish businesses.

The Convener: If I may, I will try to help to clarify the matter. I have been dealing with an issue of concern relating to the traffic commissioners, which has helped me to identify some areas of concern. Things are clear as far as which areas are devolved and which are reserved: road freight is reserved, and it is as simple as that; passenger transport or public service issues are a matter for the Scottish Executive.

My interest in the petition comes under paragraph (c), on the alleged

“Traffic Commissioners’ discrimination against Scottish businesses”.

We need to clarify that, and I am concerned about the matter. A constituent of mine—a businessman—was denied a licence by a traffic commissioner. He took the case as far as the Court of Session, which ruled that the traffic commissioner should not have denied him the licence. Rather than then award the licence, as should have been done according to the Court of Session’s ruling, the traffic commissioner decided to set up a public inquiry to look into whether the ruling was right or not. The only person who could look into whether the traffic commissioner was acting against that businessperson was the Scottish public services ombudsman, because it was a public services issue.

The petition raises issues about a lack of clarity as to who is responsible for these issues, and I think that it has some merit on that basis. However, it is quite clear that Mr Hayden’s issue is to do with road freight, for which the lines of responsibility clearly lie with the Department for Transport at Whitehall. The committee should ask the Executive to clarify its responsibilities and to indicate where people can raise concerns about the behaviour of the traffic commissioners. Do members have any comments?

Jackie Baillie: I am happy to follow the convener’s recommendation.

The Convener: Okay. Do members agree that we should ask the Executive to clarify those specific points and to respond to the matters that the petitioner raises?

Members *indicated agreement.*

The Convener: Thank you, Mr Hayden. We will get back to you when we have received an answer from the Executive.

Alec Hayden: Thank you very much.

School Trips (Safety) (PE684)

The Convener: The next petition is PE684, on the safety of children on school trips. The petition was lodged by Mr Frank Harvey and calls on the Scottish Parliament to take action to protect school children when they are travelling on school trips at home or abroad.

In November, the committee discussed the matter of Mr Harvey lodging petitions that appear to have been generated by issues that the Scottish Parliament is already considering. Petition PE684 appears to fall into that category.

In the first session of the Parliament, the Education, Culture and Sport Committee considered two petitions—PE368 and PE371—that related to school transport. In response to those petitions, the committee asked the Executive to provide new guidelines for local authorities on school transport safety. Currently, the Education Committee is considering the revised guidelines before the Executive issues them to local authorities. It appears, therefore, that the Scottish Executive is addressing the matter to which Mr Harvey's petition refers. Indeed, the fact that the matter has been debated might have led the petitioner to lodge his petition. I am not sure if there would be any merit in our taking the petition further.

Mike Watson: I agree and, frankly, I think that your remarks apply equally to PE690, which is next on the agenda.

I do not for a moment suggest that we should prevent people from submitting petitions, but Mr Harvey seems to be the most vigorous of all petitioners. I have not cleared this suggestion with the clerks and they might give me dark looks when I make it, but there might be some merit if, when a petition from Mr Harvey is received that falls into the category that you describe, the clerks were to say, "Look, the matter is already being addressed. Do you wish to proceed with the petition?" That might have some effect.

The Convener: During the committee's discussions—at away days and at other times—we have identified matters of concern that we are unable to address because standing orders

currently do not give us the power to do anything other than consider petitions that have been lodged. I have raised that matter in the Conveners Group and I have advised the convener of the Procedures Committee that at some point we must discuss how we can deal with petitions such as these. The standing orders contain no rule that would prevent a member of the public from lodging a petition on a matter that has been recently considered. We need a rule that says, for example, that a petition cannot be considered if it raises a matter that has been dealt with or that has been considered in the previous six months. We have no power to prevent such petitions from being lodged or to follow Mike Watson's suggestion and deal with them before they come before the committee.

I suggest that we discuss the matter in public at a future meeting and that we ask the Procedures Committee to look into the matter for us and consider how we might be given powers that would allow us better to manage the petitions system. Our time is regularly taken up with petitions that relate to matters that are currently being addressed or that have been dealt with very recently. The committee needs to manage its time better, but the standing orders must give us the powers that would allow us to do so.

Mike Watson's suggestion is well made, but we cannot proceed with it. We must make a decision about Mr Harvey's petition this morning.

John Scott: I recommend that we take no further action on the petition, but I agree with all that has been said by both you and Mike Watson. I think that perhaps Mr Harvey has raised a valid point in that the Executive said that it would issue new guidance on the problem, but no new guidance has yet been issued. It is now the winter of 2004 and the problem will arise again in April, May and June this year. The Executive still has not issued guidance and nothing has changed. The problem will be there this nesting season and the Executive needs to be chased up about it. That has to be said, notwithstanding the remarks made about Mr Harvey.

The Convener: Is the committee happy that we take no further action on the petition on the safety of children on school trips because the Education Committee is looking at the matter? The other petition—to which Mike Watson referred—is PE690, which is the next one on the agenda.

John Scott: Sorry, I was referring to PE690. I beg your pardon.

Jackie Baillie: I was going to say that revised guidance had been issued.

The Convener: We seem to be getting ourselves confused.

Linda Fabiani: We know what John Scott meant.

The Convener: This is the hangover from the new year.

Mike Watson raised both petitions from Mr Harvey, but the one that we must deal with first is PE684, about the safety of children on school trips. The matter is being looked at—the guidelines have been issued and they are being examined by the Education Committee, therefore the issue is in the process of being considered and the recommendation is that we take no further action on the petition.

Members indicated agreement.

John Scott: I was referring to PE690 in my earlier remarks; I am sorry.

Seagulls (PE690)

The Convener: Petition PE690, which is about attacks by seagulls in urban areas, is also from Mr Harvey. The petition calls on the Scottish Parliament to take the necessary steps to ensure that effective action is taken to prevent attacks by seagulls in urban areas. As members know, we debated the matter extensively in relation to PE616. We corresponded with the Executive and had representations from local community groups and MSPs on the issue. Mr Harvey has picked up on that and has submitted a petition asking us to consider the matter.

Notwithstanding the point that John Scott makes, the petition falls into the same category as PE616, in that the Scottish Executive said that it would produce guidance on the matter. The outcome of our discussion on PE616 was that we would keep an eye on the guidance and would seek answers from the Executive once it had been published. I take John Scott's point that we must keep an eye on the matter, because we made that commitment. However, in relation to Mr Harvey's petition I think that we should take no action given that we are already in the course of looking into the issue.

Members indicated agreement.

Current Petitions

Deaf and Hard of Hearing People (Social Work Services) (PE400)

11:42

The Convener: The first of the current petitions is PE400, on the provision of social work services to deaf and hard of hearing people. The petitioner calls on the Scottish Parliament to investigate the matter and take the necessary steps to ensure that local authorities throughout Scotland ensure that there is adequate provision of social work services to deaf and hard of hearing people in their catchment areas.

The committee considered responses from the Scottish Executive and South Lanarkshire Council at its meeting on 16 December 2001 and noted that the concerns raised by the petitioner had been addressed by South Lanarkshire Council. The committee agreed to copy the responses that had been received to the petitioner and to ask whether they were content with the action taken by the council. No response has been received from the petitioner, despite a number of reminders being sent and the petitioner being advised that in the absence of a response the committee may proceed to close its consideration of the petition. Are members content that we close the petition and inform the petitioner accordingly?

Members indicated agreement.

Scottish Prison Service (Age Discrimination) (PE404)

The Convener: The next petition is PE404, which is on age discrimination by the Scottish Prison Service. The petitioners call on the Scottish Parliament to instruct the Scottish Prison Service to return to the pre-November 1987 agreement, as per the principal civil service pension scheme rules for groups of staff who are forced to retire before reaching the age of 60 years.

The previous Public Petitions Committee considered a response from the SPS at its meeting on 23 April 2002 and agreed to write to the Prison Officers Association Scotland to get its views on the response. The committee also agreed to write to the Scottish Trades Union Congress and to the Equal Opportunities Committee. Responses from the POAS and the Equal Opportunities Committee have been circulated to the committee for members' consideration. Despite a number of reminders, no response has been received from the STUC. Do members have any views on what we do with the petition now?

Mike Watson: The correspondence is detailed but not all of it is entirely clear, particularly the status of discussions between the POAS and the SPS. However, it seems to me that, as those talks are still under way, it might be better to delay further consideration of the petition until we have heard the outcome of those discussions. If, as the briefing paper says, the talks are on-going, we have good reason to expect that they will be completed fairly soon, but I do not think that there is anything more that we can do at the moment.

11:45

Carolyn Leckie: I am a bit concerned at the lack of response from the Equal Opportunities Committee and the STUC. I wonder what sort of correspondence there has been and how many exchanges have taken place. I am a bit surprised, because I would have liked to hear their views.

The Convener: The only organisation from which correspondence is outstanding is the STUC. We received a reply from the Equal Opportunities Committee.

Carolyn Leckie: Did it say that it had no comment?

The Convener: Yes.

Mike Watson: The point that has been made is a valid one, so that is surprising. I would have thought that it would have some statement to make.

John Scott: The overriding consideration is probably that the House of Lords has ruled that the policy is not discriminatory, and there, I suspect, the matter will ultimately rest. People can discuss it ad infinitum but, if it is not discriminatory, the SPS will have acted within its remit.

Mike Watson: In legal terms, the policy has been shown to be non-discriminatory, but that does not mean that agreement between employer and trade union cannot be reached and does not prevent the SPS from acting. If discussions are still under way, that must be what the POAS expects will be the outcome.

Ms White: I would like to continue the petition until we have an update on the discussions. Annex C of the document shows that members of the Prison Officers Association in England have the luxury of working on, while Scottish officers do not. I would say that that is discriminatory, even if the House of Lords has said that it is not. I know that we have continued the petition from 2001 and 2002, but I would like to continue it further, for the benefit of the committee, until we find out the outcome of the discussions.

Carolyn Leckie: The prison officers' pension scheme must be the only one that is healthy.

The Convener: That is probably why there is so much discussion about it.

Carolyn Leckie: I would have thought that, notwithstanding the House of Lords decision—which does not have my automatic agreement, anyway—the Scottish Prison Service is devolved and the Scottish Executive therefore has responsibility for it, including responsibility for employment matters. I would therefore like to continue the petition, because I believe that the situation is discriminatory and that the Scottish Parliament has an interest in the matter.

The Convener: The feeling of the committee is that we are happy to keep the petition open in the hope that the matter can be resolved. We can continue to monitor the situation, but I do not know how we can have any input into that, other than by asking the STUC again for a response or an update and by asking to be kept informed of progress. Are members happy for us to seek that information?

Mike Watson: We should ask both the POAS and the POA just where things stand. The latest correspondence seems to date from 2002, so we could ask for an update on that.

The Convener: Are members happy with that?

Members indicated agreement.

Planning System (PE479)

The Convener: Our next petition is PE479, on the planning process. The petitioners call on the Scottish Parliament to take the necessary steps to allow local communities to become more involved in the planning process.

The previous Public Petitions Committee considered a response from the Scottish Executive at its meeting on 6 June 2002 and agreed to defer consideration of the petition until the Executive had published its response to the consultation, "Getting Involved in Planning". The Executive has provided an update on its planning agenda, which has been circulated to the committee for consideration. Do members have any comments?

Jackie Baillie: I understand that the Executive will, in due course, introduce a planning bill based on some of the reflections arising from the consultation. I suggest that we conclude consideration of the petition but write to the petitioners saying that a planning bill will be introduced and that they should watch out for it and contribute to the process.

John Scott: Can Jackie tell us when the Executive will introduce its planning bill?

Jackie Baillie: My name is Jackie, not Mystic Meg.

John Scott: I thought that you knew something that we did not, but I will take that as a no.

Jackie Baillie: Take it any way you want.

John Scott: Saying that the Executive might introduce a planning bill some time might not be a sufficient answer for the petitioner.

Ms White: The bill is supposed to be introduced this summer.

The Convener: A consultation document has been published, which means that a bill will be introduced. However, I do not know the time scale for that.

Linda Fabiani: We will need to have two consultations first.

Jackie Baillie: Don't be facetious.

John Scott: If a planning bill is going to be introduced this summer, I am happy with the proposed response to the petitioner.

The Convener: Are members agreed?

Members indicated agreement.

Sex Offenders (Home Office Project) (PE486)

The Convener: The next petition is PE486, which concerns a project to assist sex offenders to avoid reoffending. The petitioners called on the Scottish Parliament to note the progress of a Home Office project to help sex offenders to avoid reoffending and the work of the Scottish Quakers to apply the principles of the scheme in Scotland; and to consider the possible application of the scheme in Scotland.

The previous Public Petitions Committee considered the petition at its meeting on 23 April 2002 and agreed to seek the views of the Scottish Executive, the Convention of Scottish Local Authorities and the Association of Members of Boards of Visitors. The committee has received responses from the Scottish Executive and COSLA, which have been circulated to members for their consideration. Despite a number of reminders, the committee still has not received a response from the AMBV. Do members have any views on the petition?

Linda Fabiani: The first thing we should do is to go back to the Executive and find out whether the evaluation has been undertaken.

The Convener: Are members agreed?

Members indicated agreement.

Mike Watson: Mr Dick makes a valid comment in the penultimate paragraph of his petition. He says:

"While petitions of complaint seeking a remedy have their

place, participation through petitions should afford an opportunity for citizens to make representations to the Parliament about proposals that might help the Parliament to further its CSG principles".

In the light of the parliamentary debate that we had late last year, that point is worth making. Perhaps we should consider displaying information about the petitions that we have received more prominently on our website so that people can see that they are not necessarily about seeking remedies to certain problems.

The Convener: That point is very valid. Are members happy to endorse that?

Members indicated agreement.

Scottish Airports (Access to Public Roads) (PE528)

The Convener: The next petition is PE528, in the name of MacRoberts Solicitors, on behalf of the Glasgow Airport Parking Association Limited, which calls on the Scottish Parliament to conduct an inquiry into the consequences for transport infrastructure in Scotland of competition in on-site and off-site car parking at Scottish airports and to amend such legislation as it might consider appropriate.

The committee considered the Scottish Executive's response at its meeting on 3 September 2003 and agreed to seek clarification from BAA as to whether it is common practice across all its airports to impose charges on certain companies to pick up and drop off customers. The committee also agreed to ask the Executive to provide details of the outcome of its consideration of the byelaws proposals in relation to the Airports Act 1986. Responses from BAA and the Scottish Executive have been circulated to members for their consideration. The committee is reminded that the dispute between the petitioners and BAA Scotland is outwith our remit.

John Scott: I am not at all happy about this petition. The BAA letter somehow suggests that the petitioners have withdrawn their petition while the letter from MacRoberts Solicitors in annex D of our papers clearly states that they have not. I am also unhappy about the principle of BAA seeking payment for people being dropped off at its airports, which is what this boils down to.

As a result, we should continue our consideration of the petition. I have a variety of comments about it, but I am interested to hear what other members have to say. At this point, I will simply say that we should follow MacRoberts Solicitors' suggestion, examine the issue of a complaint to the Office of Fair Trading and find out whether we want our response to encourage the general principle of airports charging people for the privilege of being dropped off on their

premises. I do not believe that they should be charged in that way.

Ms White: I am not happy either. I have two issues, of which John Scott has already picked up on one. BAA seems to be under the impression that everything is hunky dory, but it is not, so BAA does not seem to know what is going on. Furthermore, the Executive has not received a reply from BAA.

My other point is BAA's glowing report, which seems to imply that it is rather marvellous at spending money and that it is not costing the taxpayer any money to upgrade. We did not ask BAA whether it was upgrading airports. It talks about not costing taxpayers any money, but it is charging small firms more than it charges other firms to transport passengers back and forth and those firms are taxpayers, as are the people who pay the fares.

The two points that I want to raise are: the reply from the Scottish Executive and BAA not knowing what is going on, because it is under the impression that the issue has been dealt with, which it has not, as the letter from MacRoberts Solicitors makes clear; and the fact that the Executive has still to receive a follow-up reply from BAA. We should continue on those two points: BAA's incompetence and the reply from BAA that the Executive expects.

Mike Watson: The response from BAA is very detailed and raises one or two questions, to which I will come in a minute. However, my first point is that MacRoberts Solicitors were written to again and have sent back a response that lists four new points. Is that permissible? The petition was submitted and considered. It was then delayed for things to happen and, when it was reactivated, MacRoberts Solicitors have come up with four new points. I am not saying that those points are not important or relevant, but I wonder whether it is appropriate for that to happen. If it is, BAA should be asked for its response to those points, because they are all specific to BAA.

BAA makes a couple of points on which I would like clarification. In the second paragraph of its letter, it says:

"we have recently enjoyed cordial negotiations with the parking association ... and have signed an agreement with that organisation."

Do we assume that that is the Glasgow Airport Parking Association that is mentioned in the petition? If it is, it is surprising that both sides do not have the same understanding of that agreement.

The fourth paragraph of the second page of the letter says:

"On the contrary, we have established Air Transport

Forums at each of our Scottish airports, involving local authorities, transport operators, airlines, the Scottish Executive, chambers of commerce and others."

I wonder whether the GAPA is involved in those air transport forums, particularly at Glasgow airport, and whether there are equivalents at other airports in Scotland.

I would like those questions to be put to BAA because, as things stand, there is a lack of clarity on the matter.

The Convener: To answer your first point, it is not permissible for MacRoberts Solicitors to introduce those new points. The petition contained certain points, which were being addressed. If four new points have been raised, they should form a new petition. It is not admissible continually to add new points to be addressed as the process goes on: the petition relates to the points that MacRoberts Solicitors made initially. It might be that the new points could be resolved in resolving the initial petition, but it is not for us to continue a petition by having things added to it. If the initial points are resolved and MacRoberts Solicitors lodge a new petition based on the four new points, that would be permissible, but it is not acceptable to progress a petition by adding to it as it goes back and forward.

Mike Watson: That is what I understood. Presumably we have those points because they are part of the letter that was the response from MacRoberts Solicitors. I accept that, but my subsequent comments and my request for clarification of the BAA letter to stand.

John Scott: There is also the issue of byelaws. Executive ministers have not yet reached a conclusion on the situation with regard to the byelaws.

I would also like to make a point about the exclusivity of the deal that it would appear BAA has entered into with National Car Parks. The OFT might also want to consider that issue. A series of questions need to be answered. For that reason, we should continue PE528 for the time being at any rate.

12:00

The Convener: I have been reminded that competition law is a reserved matter. However, we could seek a response from the Executive on how it is handling its responsibilities under the law. Is that agreed?

Members indicated agreement.

Adults with Incapacity (Scotland) Act 2000 (PE573)

The Convener: The final current petition this morning is PE573. The petitioner calls on the

Scottish Parliament to amend section 47 in part 5 of the Adults with Incapacity (Scotland) Act 2000 and the code of practice to remove from general practitioners the work load in relation to the assessment and certification requirements, in favour of appointing dedicated personnel to fulfil those requirements.

In the first session of the Parliament, the previous Public Petitions Committee, having considered responses from the British Medical Association and the Scottish Executive, noted that the Executive appeared to have recognised the difficulties for GPs in complying with the provisions in part 5 of the act and planned to consult on proposals for changes to the code of conduct and amendments to the act. Therefore, the committee agreed to put PE573 on hold until after the parliamentary election. The Executive's update on its consultation was circulated to the committee. Do members have points to make on the PE573?

John Scott: I welcome the Executive's recognition of the problems. Along with Dr Beatson, I was instrumental in submitting PE573 to the committee. We should keep the petition open until we see what the Executive's proposed changes are to part 5 and other sections of the act, after which we could check whether the petitioners are happy with the Executive's proposals. Given the scale of the problem—I believe that 300 or so of Scotland's GPs signed the petition—it is too early to close down the petition before we see what the Executive's proposed changes are.

One of the values of the Public Petitions Committee is that it can act as a belated reviewing chamber. No one does anything other than applaud the intentions of the Adults with Incapacity (Scotland) Act 2000; the practicalities that are the subject of the petition may not have been considered at the time. The Public Petitions Committee could serve a useful purpose if it were used to propose amendments to legislation that the Parliament has passed.

The Convener: That is a very good point. Do we agree to continue PE573 and to monitor the situation?

Members *indicated agreement.*

The Convener: I thank colleagues for their attendance. We have finished in not too bad time today. We cannot always count on that, but we have made a good start to the new year.

Meeting closed at 12:03.

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