

PUBLIC PETITIONS COMMITTEE

Wednesday 3 March 2004
(*Morning*)

Session 2

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PUBLIC PETITIONS COMMITTEE

4th 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)
Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Alan Beatson
Dennis Canavan (Falkirk West) (Ind)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
Alex Fergusson (Galloway and Upper Nithsdale) (Con)
Robin Harper (Lothians) (Green)
Alan Kennedy (Machars Broadband Action Group)
Pauline McNeill (Glasgow Kelvin) (Lab)
Alex Neil (Central Scotland) (SNP)
Philip Paris (Show men's Guild of Great Britain)
Mr Mark Ruskell (Mid Scotland and Fife) (Green)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Wednesday 3 March 2004

(Morning)

[THE CONVENER *opened the meeting at 10:01*]

Item in Private

The Convener (Michael McMahon): Good morning. We have apologies from Linda Fabiani, who cannot make it this morning.

Item 1 on our agenda is a request that we take item 4 in private, as it relates to the committee's work programme. Does the committee agree to do so?

Carolyn Leckie (Central Scotland) (SSP): I am not convinced that item 4 needs to be taken in private. The Public Petitions Committee, in particular, should endeavour to deal with all its business in public.

The Convener: I take your point, but it is usual practice in all committees to discuss reports and work programmes in private.

Carolyn Leckie: I believe that that is under review. The principles of the Parliament should be that we are open where at all possible. I appreciate that I might not have the agreement of the committee on that point, but I would like my views to be recorded.

The Convener: If we record Carolyn Leckie's dissent, does the committee agree to take item 4 in private?

Members *indicated agreement.*

New Petitions

Broadband Technology (PE694)

The Convener: Petition PE694 is from Alan Gordon Kennedy, on behalf of the Machars Broadband Action Group. The petition calls on the Parliament to urge the Scottish Executive to ensure provision of broadband facilities to all communities throughout Scotland by the middle of 2005. Members might wish to note that before it was formally submitted, the petition was hosted on the e-petitioners site, where it gathered 383 signatures.

Alan Kennedy is present to give evidence on behalf of the petition. He is accompanied by Wes McGregor and Alex Fergusson MSP.

Mr Kennedy, you have three minutes for your opening remarks, after which we will ask you some questions.

Alan Kennedy (Machars Broadband Action Group): I quote, with his permission, words that Andrew Charlesworth, the editor of "PC Advisor" magazine, wrote in February 2004:

"Just as the free flow of goods along transport links created wealth in the 19th and 20th centuries, the free flow of information through the telecoms infrastructure will create wealth in the 21st. As workers and consumers, we need broadband internet access in the same way as we need roads".

In my petition, I have called for action to advance broadband availability across our country. Some six months ago, I knew virtually nothing about broadband. The frustrating inability to get broadband in my extremely rural area in south-west Scotland in order to continue with my DNA research project led me to set up a community campaign. Now, after a lot of work, we are to have a managed community wireless network served by a satellite link that covers two towns and their outlying areas. It will be cost effective and technically sound.

The involvement with that campaign made me aware that there were communities all over Scotland that wanted broadband but were unable to make sense of the many hoops that they had to jump through. The response to my petition indicates the strength of that community frustration right across Scotland and beyond.

I believe that the case is made for something to be done now and I hope that members will want to know what I propose. There are four points. First, the Executive needs a much more innovative and imaginative approach to publicising all aspects of broadband. The television message about broadband that is currently being screened is generally seen as dreadful and quite ineffective. Many people—even those with computers—are

still totally unaware of its benefits or of the alternative ways in which they can get it.

Secondly, British Telecommunications must be dissuaded from exploiting its monopoly hold on the network and incentivised to work with other service providers to bring broadband in by means other than sole utilisation of the BT network. An example would be reducing costs dramatically on leased lines to wireless network users, which would allow competitive community networks to operate where satellite or cable services are not suitable solutions.

Thirdly, communities that want broadband must be given simple but effective advice on how they can get it. That would include advice on how to assess the service options, how to gather support and how to implement fully managed systems. At present, such advice is pretty much not available or is poorly communicated when it is available. We need to discourage potential and existing users from viewing BT as the sole provider, as registering with BT simply reduces the choice and competition factors. In addition, BT seems wholly unable to respond to the technical challenge within reasonable timeframes.

Finally, the Scottish Parliament should present a more united front in declaring its support for broadband. It must actively encourage and educate local authorities and institutions in the added value brought by broadband. The Executive should give grant funding or tax incentives to enable all broadband service providers to tap into new technology and develop networks reaching out to the farthest-flung communities and dwelling places. That funding must be specific and focused, with clearly understood and defined outcomes within defined timescales. The objective should be to ensure that broadband can be offered by mid-2005 to all Scottish communities seeking it. That can be achieved, but it needs a mindset change in some areas to achieve it.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I would very much appreciate a couple of minutes of the committee's time. First, I commend Mr Kennedy, who is a constituent of mine, for highlighting the matter in this way. In my capacity as convener of the Rural Development Committee in the previous session, I was involved in producing a report on integrated rural development and some of the major barriers that prevented rural development, particularly economic development. One of the major issues that emerged in rural Scotland was the lack of availability of broadband access.

Many of us in rural Scotland have argued for the whole lifetime of the Parliament that there was logic in putting broadband into rural areas first, to allow them to have a level playing field with their urban competitors. That has not been the case,

and the result of the BT target-setting programme—which is very difficult to achieve in some of the smaller communities, such as that from which my constituent comes—is that we have a piecemeal approach in rural Scotland. We can contrast that quite vividly with the situation in Northern Ireland, where there is a Government-backed initiative, which has now gone out to tender and which will give every single person in Northern Ireland access to broadband. That is a completely different approach from that taken here in Scotland. Frankly, if it is good enough for Northern Ireland, it should be more than good enough for Scotland. I commend the petition to the committee and hope that you will look sympathetically on it.

Jackie Baillie (Dumbarton) (Lab): I am generally quite supportive of the principles underlying the petition. However, when we look at the debate on the petitioner's side, there seems to be a focus on BT rather than anything else. The views that we have been given today are slightly different from those contained in the original petition. In particular, Mr Kennedy, you have made comments about satellite broadband and wireless networks that I do not think reflect people's experience of using them. I am privileged to represent an area that has access to wireless networks, in Helensburgh, Garelochhead and the Rosneath peninsula. Wireless networks are very effective technically and very cost effective. Could you clarify that you are not looking at BT exclusively but are considering much wider ways of enabling the technology in all parts of Scotland?

Alan Kennedy: I am glad that you raised that point. I am not in any way technically capable of assessing the rights and wrongs of all the systems. I come from a background that did not have broadband and I have learned a little bit about it.

Everything that I see and read as a layman leads me to believe that wireless is the way forward. It is interesting to note that Japan has now moved to having more wireless networks than cable or land-line networks. Our area has chosen wireless because it best suits our needs, quite apart from the problems that we might foresee in hitting BT's trigger figures—some of which do not exist.

I am a keen advocate of wireless networks, but I believe that they need a helping hand. That is why I mentioned leased lines in my submission.

Jackie Baillie: That is helpful. Thank you.

Carolyn Leckie: I support the idea of rural communities having equal access to broadband and other technologies. However, I would probably disagree with your emphasis in how that could be achieved. I do not necessarily agree that

increased competition is the way forward. I support referral of the petition, but do you agree that your petition's aims to improve access to broadband in rural communities might be better served by a democratically accountable, publicly owned telecommunications firm that could ensure that it was not only the central belt that was favoured?

Alan Kennedy: I hear where you are coming from, but I will take broadband any way I can get it. If wireless networks are the way to go, then I will go that way. If BT had been willing to put broadband in, I would not be here today. I am not here to advise one technical solution or another; I am here as a simple guy from a rural area who sees no hope of getting broadband. At the moment, we cannot get digital television or radio. The one way in which we could compete is with broadband. I do not care where it comes from or who provides it; I just want broadband, now.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I support the concept that you are promoting. I represent a rural area where many places are devoid of satellite communication because of the terrain and the geography. How are those more rural areas going to be served? BT and other providers suggest that the technology is available but the infrastructure is not able to provide the service. What are your thoughts on that?

Alan Kennedy: My thoughts are based on what I read, hear and learn. The technology is advancing so quickly nowadays that, whereas six months ago we were talking about a wireless network needing a 2km to 3km range, equipment is now available that can go much further than that—up to 10km or 12km.

We are also probably not making as much use of leased lines as we could, mainly because of the prohibitive cost of something like £15,000 to provide a leased line that would serve a community with broadband. I do not believe that we are tackling such issues in a joined-up way to assess the best value for each community. There are solutions available now in the technical marketplace, but we have to be much more conscious of them.

John Scott (Ayr) (Con): I am also content to support the main thrust of the petition. I notice that the KA postcode in Ayrshire accounted for the second-highest number of supporters of the petition. I also have a certain affinity with Newton Stewart. Do you have details of the current numbers of people who have signed up to broadband in the Newton Stewart area? You said that the trigger figure is now 500 instead of 200.

Alan Kennedy: I am pleased to be able to say that, after a hard campaign, the Newton Stewart

area has achieved the BT trigger figure of 500. The problem is that BT cannot install broadband for another six to eight months, by which time Newton Stewart could have had a satellite wireless network.

I am also pleased to tell the committee that over the next fortnight a wireless broadband system will begin to operate in Moffat. Other areas such as Sanquhar and Kirkconnel in the south-west, which is my principal concern, are not too far behind with wireless networks.

We have also set up a south-west Scotland users group to try and help these small communities, because there is no format for people who want to set up a network. One either goes through BT or does what I did and finds out how to get a network installed. We want to help these communities, which is what the users group has been set up to do.

10:15

John Scott: In that case, do you agree that given the pace at which wireless technology is advancing and given that we are talking about 400 or so communities—which represent less than 2 per cent of Scotland's population—it is a little unfair to blame BT entirely for not having covered those communities so far? Indeed, those communities might in future be covered by a form of wireless technology that is more effective than installing broadband in most remote rural areas.

Alan Kennedy: You have made two points that I must respond to. First, I have suspicions that BT is cherry picking areas where wireless technology might otherwise come in. There have been some indications that in areas in which people have sought to set up wireless networks BT has immediately found that the trigger figure has come down. Indeed, the gentleman in England who supports a project called RABBIT—or remote area broadband inclusion trial—which is introducing broadband across the rural areas of England, and who advises the Department of Trade and Industry on the matter has commented that, as soon as someone mentions a wireless network in a certain area, BT comes in and there is suddenly a change in the trigger figure.

I think that competition is healthy. I also think that BT cannot do everything and that it needs to be encouraged to reach areas that it does not reach. However, I am concerned that BT's alternative technologies are not being sufficiently explored. For example, it is only just now considering wireless networks. Its exchange activate scheme, which is an alternative to broadband, has many weak points and gives a not very satisfactory service to a limited number of viewers. As a result, I am concerned that we are

not getting the message across to BT that it needs to do more. I do not think that we can rely on it.

The Convener: I point out to members that the Enterprise and Culture Committee launched an inquiry into the roll-out of broadband in Scotland on 28 January. As part of the inquiry, the committee will consider issues that the petitioner has raised and has indicated that it would like to invite him to give evidence. I therefore suggest that the committee agrees to refer the petition to the Enterprise and Culture Committee for its consideration and to give the petitioner the opportunity to feed directly into the inquiry.

Helen Eadie (Dunfermline East) (Lab): I agree. Although I acknowledge the concerns that the petitioners have raised this morning, I would like to balance their position by pointing out that on Monday Scottish Enterprise gave a presentation on this matter at which Christine May, Ted Brocklebank, Murdo Fraser, I and all the other list and constituency members in the Mid Scotland and Fife region were given a whole raft of facts and figures. Many of us represent rural areas; in fact, I have the privilege of representing Ballingry, which was the first area in Scotland to receive wireless technology. As a result, I am very familiar with many of the issues that have been raised.

In its presentation, Scottish Enterprise presented figures and graphs that showed that as a result of its advertising campaign over the past year the take-up and growth of broadband had suddenly changed from a steady curve upwards to an almost vertical line. That seems to be down to much of the action that organisations such as Scottish Enterprise and BT have taken. We should remember that there are many other providers throughout Scotland, particularly in the urban areas, such as the cable people. We are four-square behind the petitioners. They are right that broadband is the right way forward to achieve growth and economic development throughout Scotland, but I hope that they agree that many of the agencies throughout Scotland are doing a tremendous amount of work to support that.

The Convener: Do we agree to send the petition to the Enterprise and Culture Committee?

Members indicated agreement.

The Convener: I thank Alan Kennedy for his attendance.

Street Prostitution (PE705)

The Convener: Our next petition, PE705, which is in the name of Alan J Beatson, calls on the Parliament to urge the Executive to address the problem of street prostitution in residential areas. I welcome Alan Beatson, who is here to give evidence in support of his petition. He is joined by

Susan Deacon MSP, who I understand will say a few words in support of the petition. You have three minutes, after which we will ask questions.

Alan Beatson: Thank you very much for giving me this opportunity.

We live in a typical community of about 400 households; there are probably thousands of such communities in Scotland. Members of the committee probably all belong to similar communities. We come from a cross-section of society—members of our community include just about every type of person imaginable, such as dentists, social workers, bus drivers and parents. We are all very busy—we have our careers, we are parents and we have to pay our bills—but the quality of our lives has been damaged so appallingly, even destroyed, that for six months last year, 60 people were prepared to go out with posters two nights a week for a total of eight hours to reclaim our streets peacefully.

Members of the committee have busy lives, just as we do, and I would like them to consider what it would require to provoke such a strong response from ordinary people. That response alone shows how severe the problem of street prostitution, which began in Leith Links in 2002, has become to one local community. That is the petition's origin.

I will not go through how the community has been affected by street prostitution, because time is short. I can summarise it best by saying that, in a sense, we lost our community. Our community was besieged, our civil rights were compromised and we could barely leave our houses without molestation; the situation was so extreme that we were forced to take the action that I described.

The petition asks the Parliament and the Public Petitions Committee to do a number of things. First, it asks them to acknowledge the fact that there is a gap in the law in relation to street prostitution. In England and Wales, there is legislation that makes kerb-crawling illegal. That does not apply in Scotland. It is obvious that the failure to have a workable legislative framework for dealing with the problem has led to the enforcement authorities applying different standards in different parts of Scotland. The situation needs to be reviewed and brought within a legislative framework. That is the business of the Parliament.

We want to emphasise a number of points. First, it is obvious to everyone in our community—and in similar communities—that kerb-crawling is the main, underlying problem. If the problem of kerb-crawlers was attended to, the prostitutes would have no clients. That would be the best solution. In some countries, notably in Sweden, kerb-crawlers receive punitive fines. Such measures ought to be considered in Scotland. We are also concerned

not only about the threat to the safety of female residents in our community and in other, similar communities, but about the vulnerable position of the prostitutes themselves. Something should be done in a co-ordinated way to help to rehabilitate prostitutes. For example, nearly all of them are heavy drug users and they should be helped to get off drugs.

Time is short, so I have summarised the petition and I hope that it will gain members' attention and support. I should say that action is already being taken in Edinburgh and that the Executive's expert group on prostitution is considering the issue. However, we cannot afford to wait for years for a decision, because in our community and in similar communities, there is a crisis situation that must be attended to.

Thank you for hearing the petition that we have presented.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I welcome the opportunity to add to Mr Beatson's comments. First, I thank the committee for hearing the petition and I join the Leith Links residents association in asking the committee to consider street prostitution and its impact on communities.

I acknowledge that there is a huge range of views on the issue, even within the residents association. I am one of the constituency members of the Scottish Parliament who has been dealing with the matter and I have had many discussions with various agencies, including statutory bodies such as the police and health and social work, and with organisations such as the Scottish prostitutes education project, which supports women who work in street prostitution and more widely in the sex industry in Edinburgh.

There are different views about what can and should be done, but I think that everyone is united in saying that the current situation is unsatisfactory and in acknowledging that when there was an informal tolerance zone in the city, we did not have such problems and that the situation was better, calmer and safer for everyone concerned, both in the local communities and among the women who work in street prostitution. Anyone who has grappled with the issue, as local residents have done and as I have done as their representative, knows that the issue is difficult, for practical reasons and because people have different ethical and moral perspectives on the situation. However, the simple message that I convey to the committee is that we must do better than we are currently doing.

As Alan Beatson said, the City of Edinburgh Council has taken forward work at a local level. It is important to note that point, as the committee and the Parliament would not want to deal with

matters that are, rightly, better dealt with by local agencies. However, the City of Edinburgh Council has acknowledged that a gap remains at national level, in relation both to the legal framework and to other policy areas in which we might strengthen our approach.

The Executive is taking forward the work of the expert group, which is considering the legal framework, among other things. I note that there are different views on the Scottish legal position on kerb-crawling and on the efficacy of changing the law. However, my simple message is that we must take the issue seriously and address it at both national and local level. We must do everything in our power to ensure that communities' needs and interests are addressed—Alan Beatson set out the issues, concerns and problems effectively this morning—but we must also address how the women who work in the sex industry can best be supported. I hope that, through the petition, there will be an opportunity to add momentum and draw attention to this important issue.

10:30

Ms Sandra White (Glasgow) (SNP): I thank Mr Beatson and Susan Deacon. I am familiar with the issue as I sat on the Local Government Committee in the previous parliamentary session, when it took evidence on Margo MacDonald's Prostitution Tolerance Zones (Scotland) Bill. As members know, the bill is going through Parliament again. Perhaps this particular issue sparked off Margo's bill.

I want to ask you some questions on community policing. In your submission, you mentioned pimps acting in a threatening way, pulling out knives and so on, and you mentioned kerb-crawling. I agree that the position on kerb-crawling in Scots law should be changed. What type of policing do you have in your area?

Alan Beatson: The police have many big issues to deal with. It is ironic that the local police station is on the fringes of Leith Links, which is the area in which the prostitutes have been active. The deployment of police in that part of Edinburgh stretches right across the northern part of the city all the way to Portobello, and it is obvious that the police have limited resources. We have meetings with the police every couple of months and we bring the problems to their attention. They are now considering antisocial behaviour orders in relation to the problem, as is the city council as the legal enforcer—that is a positive way forward and it is being undertaken.

The police do not have the resources to deal with the problem because they have many other things to do as well. It is obvious that, because

there is no legislative structure that is applicable to the problem, different police forces give it a different order of priority in different parts of Scotland. Anecdotally, we hear that the law is applied much more strictly in the west than in our area. That is part of the chaos and lack of conformity that exist around the problem.

Ms White: As a community, you are entitled to proper policing. Has anyone been attacked and, if so, has it been reported to the police that there have been attacks by pimps? Such attacks are assault. Would proper policing in the area solve the problem, or do you think that a prostitution tolerance zone would be the best way of doing that?

Alan Beatson: When we started our patrols nearly a year ago, the police were not terribly supportive, to be honest. I think that they saw us as a potential cause of a breach of the peace, and we had a lot of problems getting their support. We would see obvious soliciting taking place and we would phone in, but we would be lucky to get a car many hours later. Of course, the police have perfectly legitimate excuses—if there is a major robbery somewhere else, the problem that we report is a relatively low-level problem to them. However, the police have increasingly responded to the problem. Last April, they started foot patrols, which have certainly helped. Prior to that, we had at most one or two cars operating throughout this big area of Edinburgh. Since the issue has been getting a much higher level of publicity, it is clear that the police are responding much more quickly and they are taking it much more seriously.

There have been incidents. People have been threatened. I was involved in one incident in which a group of heavies drove up to us in a car and shaped to threaten us. If five other people in another patrol had not arrived, there was a serious danger that we would have been beaten up. We were intimidated.

People have been threatened with knives, but by the time that the police are contacted, the opportunity for action has passed. The police station may be very near, but it is not manned for much of the time. However, the situation is improving because the level of publicity has made the police much more conscious of the problem.

Ms White: Would prostitution tolerance zones be one way of solving the problems that people are having with redevelopment, or would more policing solve such problems?

Alan Beatson: I certainly think that more policing would help. The police should realise and accept that the problem is serious because people's liberties are being compromised. People have left the area and people cannot leave their houses for fear of being accosted or asked for

sexual favours. At one time, the police did not take the problem seriously enough, but they are taking it more seriously now. However, the problem still exists and further action is needed.

Our residents association, which has more than 100 members, is divided on the issue of a tolerance zone. There are arguments for tolerance zones, but many of us think that such a zone must be kept within its bounds because if prostitution spreads outside the zone, the problem will be much worse. Many people see the value of having a tolerance zone, but, to be honest, they are concerned that such a zone should not be too near to them. In the community in question, which has suffered severely in the way that has been described, many people are not keen on a tolerance zone being anywhere near them. They do not feel confident that the problem will diminish as a result of the creation of such a zone, and they think that a zone might attract people—including sex tourists—into the vicinity, which could worsen the situation.

Carolyn Leckie: I thank you for presenting your case. I have a few questions to ask.

An interesting debate is taking place throughout the country and I detect some contradictions in what you ask for in your petition, which I would like to tease out. I suppose that a person's analysis of what prostitution is affects their solutions. In defining the problem, the petition says about street prostitution:

"In an increasingly liberal age there is less need for this practice".

Where did you draw that conclusion from? I see prostitution as predominantly the abuse and exploitation of women by men. Such abuse and exploitation are increasing, no matter how liberal we have become.

How would tolerance zones and the criminalisation of kerb-crawling fit together? The petition mentions Sweden. Kerb-crawling is criminalised there, but prostitutes are decriminalised and supported out of prostitution. Will you comment in more detail on the relative merits of both approaches? Can a tolerance-zone strategy sit with a strategy of criminalising the men who are involved and decriminalising the women who are involved?

Alan Beatson: I will deal with your final questions first.

For a tolerance zone to work, there would have to be strict policing outwith the zone; otherwise, the zone would have no boundaries. We have discovered that one area in Leith that the police designated as a potential tolerance zone did not work because people moved out of the area into Leith Links or an area where there are little

gardens, car parks, stairs and other places where they would not be disturbed. There is not a contradiction in saying that the area outside a tolerance zone must be policed properly.

It is obvious that kerb-crawlers and pimps exploit women. I mentioned briefly that it is essential that women receive proper help with rehabilitation and support to reconnect with society.

Carolyn Leckie: You talk about the increase in the number of antisocial behaviour orders against women and about more stringent use of the soliciting laws against them. What is your view of the idea of decriminalising the women, even beyond tolerance zones, and criminalising the men?

Alan Beatson: On my part, rather than on the part of the residents association, I support that because the problem is that kerb-crawlers and pimps exploit the women. It is said that pimps keep women on drugs as a means of exploiting them further and increasing their dependency. Speaking personally, I feel that the decriminalisation of prostitution would be a good way forward, provided that action is taken against the men who are part of the problem. As Carolyn Leckie suggests, it is essential that resources should be given to help women to reconnect with society and to get off drugs.

Street prostitution is different from what happens in saunas, which is on the fringes of the law, because street prostitutes who are on drugs would not be acceptable in any institution. That is why they are on the streets and why they are particularly vulnerable. Carolyn Leckie mentioned our point about society being more liberal. That means that there should not really be a need for street prostitution, because the law is flexible enough to allow alternative opportunities.

One of the problems is confusion about the legislation, which must be examined, tidied up and clarified so that people know what the situation is. The breach of the peace and soliciting laws are applied differently; the fact is that nobody knows what the situation is—it is chaotic.

Mike Watson (Glasgow Cathcart) (Lab): The petition tells us that

“In late 2001 unexplained and unilateral action was taken in ‘withdrawing’ police recognition of”

a zone

“in which street prostitution flourished without hindrance.”

A new zone was “unofficially suggested” and no consultation was conducted with interested parties, including the local community. Was that decision made by Lothian and Borders police, by the City of Edinburgh Council or by the two in conjunction?

Alan Beatson: Councillors and other people whom we have asked have informed us that the decision was taken unilaterally by the police. If I am wrong, I will stand corrected, but that is our belief.

Mike Watson: Perhaps Susan Deacon will be able to explain, but I find it incomprehensible that the police could think that moving the zone from an industrial area to a residential area would ever be a positive step in any way.

Alan Beatson: One has to put the situation in context. For want of a better word, it could be called the gentrification of Leith. Coburg Street has been a tolerance zone for 30 or 40 years.

Mike Watson: So the zone was an industrial area that became in part a residential area.

Alan Beatson: Yes. New houses and flats were built and the residents objected to what was happening outside their homes.

Mike Watson: Perhaps I could direct this question to Susan Deacon. I still find it surprising that the police or the council made no attempt to warn local residents of what was happening. It is fairly obvious what public opinion would have been, if they had canvassed it. Did consultation happen at all?

10:45

Susan Deacon: It is important to remember that the previous tolerance zone was an informal tolerance zone. The crux of the debate around Margo MacDonald’s member’s bill is whether we should legislate for tolerance zones to be recognised under the law.

The situation in Leith was, and is, altogether less clear cut than might otherwise be the case, and it has grown up over a number of years. When something is not formal or official, it is difficult for official decision-making processes to change things. A range of circumstances relate to the move away from the zone, including Alan Beatson’s point about housing development taking place in the area. For the purposes of the committee’s debate, however, there is too much detail to go into on the circumstances behind the issue.

The important point to make is the one that I made earlier—everybody in the area and the various organisations that are involved say that the situation has dramatically worsened for all concerned since the informal zone ceased to be in place. I want to try to be very upfront in what I say in my plea to members this morning.

I recognise the wide range of views on the issue. Those views are to be found in the local residents association and around the committee table today.

I understand absolutely why people want to question the residents association on its analysis of what should be done; I have questioned some aspects of that analysis myself. However, I do not question local residents' experience. Over the past couple of years, the situation has been intolerable. Our job as politicians is to try to steer a course for the future that makes the situation better.

I do not dismiss for a moment some of the detailed questions that are being asked. I am happy to discuss the issue that Mike Watson raised in greater detail outside the committee room. The Local Government and Transport Committee has looked at the history of the Edinburgh tolerance zone. In simple terms, I am saying that, if we strip away all that detail and all the historical analysis, the key questions for us relate to where to go from here and what can be done at national level to better the situation for residents of Leith Links and other areas that might be similarly affected in the future.

The Convener: It is important that we listen to the experiences of the petitioners, but we have to consider what the petition is about. It asks the Scottish Parliament to examine the issue and to try to make progress on it.

An expert group has been established to consider the issue, the Local Government and Transport Committee is examining Margo MacDonald's bill—its consultation process began yesterday—and the City of Edinburgh Council will be keeping an eye on the situation. There are a number of directions in which we can send the petition.

Helen Eadie: It would be helpful to get an update from the expert group on prostitution, so that we can find out what it is doing with regard to the specific issues that the petition raises. It would also be helpful to send the *Official Report* of our discussion to the City of Edinburgh Council and Lothian and Borders police. I am supportive of the concerns that are being raised. My constituency does not face a comparable problem and I feel for the people of Leith and everyone who is involved in the situation.

We could pass a copy of the petition to the Local Government and Transport Committee for information, given that it is considering Margo MacDonald's bill.

I wholly endorse everything that the petitioners ask for. I think that their requests are entirely reasonable and I give them my full backing.

Mike Watson: I would like to know how the request relating to antisocial behaviour orders would work. It might be too technical an issue to deal with today, but I have doubts that that would be an effective way of dealing with the problem. Legislation on kerb-crawling would go some way towards solving the problem.

The petitioners might be aware of the approach that is taken by Glasgow City Council—basically, it is one of zero tolerance—and I wonder why they do not think that that is an appropriate approach for Edinburgh. If that policy were introduced and enforced in Edinburgh, that would provide another means of dealing with the issues that the community faces.

Alan Beatson: There is no clear legislative framework and, as a result, each community has developed its own culture in terms of policing, local government and social work policies. The situation is too complicated to say simply, "If the council in Glasgow has a severe policy, why can't the council in Edinburgh have the same policy?" The cultures of the two cities are different.

Nature abhors a vacuum and, in the absence of anything else, each community has developed its own way of dealing with the problem. It is not easy to import a change of attitude into a situation that has an established way of dealing with a problem. The police in Edinburgh have viewed the problem in a certain way for a long time and the police in Glasgow have seen it in another way. A policeman from the west of Scotland whom I met had a totally different view of this matter from ours. I do not want to go as far as saying that Edinburgh is a liberal city with different traditions from Glasgow, as that would impugn Glasgow in a way that I would not wish to do.

The problem must be examined from the top down. It is no use telling the police that they should suddenly start acting in a way that they have not acted in the past. We have had meetings with the police at which we have been told that they cannot apply the law any differently. I have met senior police officers from Glasgow who say that they have the capacity to use the current law in a way that allows them to deal with the problem. What do we do?

Susan Deacon: The use of ASBOs and a number of other issues that have been raised this morning were addressed in a written report that was produced by Edinburgh's multi-agency expert group, which has been referred to. That report might be of interest to this committee or to anyone else who is considering the matter. In the chamber, I told the minister that the work that is being done in Edinburgh to address the problems should be considered at national level.

Alan Beatson: On the point about ASBOs, quite a lot has been done by the community in the past couple of months. People have been keeping diaries and so on in an attempt to prepare the way for the orders to be served in the community. The people on the ground who are involved in the measures are confident that they will provide a way forward.

Mike Watson: What do you mean when you talk about the “people on the ground”?

Alan Beatson: I am talking about people who have problems outside their houses. Prostitutes linger on some street corners because they are highly visible and, if your house is on such a corner, you literally have a problem on your doorstep, if not in your stairwell. People who are exposed in that way are keeping diaries and records because they recognise the women involved and their pimps. The keeping of such diaries is an essential prerequisite of the serving of ASBOs. I cannot give you details, but a lot is happening in that regard.

Jackie Baillie: I understand absolutely the petitioners’ desire for a national framework. It must be dreadfully frustrating not to have that. However, I would question the idea that Glasgow is less liberal or has a more severe policy than Edinburgh, on the basis that what is important is not the actions that are taken but the underlying analysis. If you think and believe that prostitution is about the exploitation and abuse of women—as many in this committee do—you have to ask whether our society should tolerate that. However, that is a debating point for the Local Government and Transport Committee.

On that basis, I support Helen Eadie’s suggestion that we communicate with the expert group on prostitution to find out whether it is examining the areas that the petition covers, and that we refer the petition, for information, to the Local Government and Transport Committee, which is considering Margo MacDonald’s Prostitution Tolerance Zones (Scotland) Bill.

Alan Beatson: There is a group in Edinburgh called SCOT-PEP, which exists to support the women, but its funding for education and rehabilitation has been withdrawn. SCOT-PEP is in a very exposed position: there is a fine and difficult line between supporting the prostitutes and supporting them in prostitution. Many of the local residents are very concerned that that line is being crossed.

The Convener: Are members happy that we take the action—

Ms White: Convener, can I add—

The Convener: I really do not want the discussion to go on for longer, unless what you wish to say will bring us more information that will help us. I will give you a bit of leeway.

Ms White: I agree entirely about where the petition should be sent, but could the *Official Report* of our meeting also be sent to the Local Government and Transport Committee? A lot of interesting stuff has come out with regard to the tolerance zone. That is all that I wanted to say.

The Convener: That will happen as a matter of course. Every time that we send anything to a committee, we also send the relevant part of the *Official Report* for information.

Carolyn Leckie: The issues are complex, and we do not have sufficient time to come to any conclusions about the action that is required. I support the referral of the issues that the community has raised to the various other committees, and we should follow the progress of the expert group. However, I would not be comfortable at the moment with Helen Eadie’s emphasis on giving support to the action points in the petition. The issues around criminalisation, decriminalisation and tolerance zones are extremely complex, and they require thorough debate. I do not think that it would be helpful for this committee to take a position on those issues.

The Convener: That is fair enough. If we pass the petition to the Local Government and Transport Committee and to the expert group, without any recommendation, I am sure that they will look into the issues that it raises in the course of scrutinising Margo MacDonald’s bill. The expert group has a very wide remit, and is examining all aspects of the social issues relating to prostitution. I am sure that it will take on board our discussion this morning. Are members happy with that?

Members indicated agreement.

The Convener: Thanks very much for your time, Mr Beatson.

Travelling Show People (PE698)

The Convener: The next petition is PE698, in the name of Jane Rodgers, on behalf of the Showmen’s Guild of Great Britain, Scottish section. The petitioner calls on the Parliament to urge the Executive to introduce a national policy for travelling show people. Philip Paris is present to give evidence in support of the petition.

Welcome to the committee. You have three minutes, after which we will ask questions.

Philip Paris (Showmen’s Guild of Great Britain): My name is Philip Paris and I am the chairman of the Scottish section of the Showmen’s Guild of Great Britain. There are another nine sections of the guild and our main, or central, office is in London.

The main reason for the petition is that, since devolution, most, if not all, of the matters concerning our business and our way of life are now governed by the Scottish Parliament. We think that the Scottish Parliament should consider adopting a national policy for travelling show people.

We have a number of issues. First, there is a shortage of suitable areas for use by travelling funfairs. Many sites have been lost due to redevelopment, and not enough consideration has been given to alternative sites.

Secondly, between 1982 and 2003 every Scottish local authority started to require travelling funfairs to have a public entertainment licence. However, there is no consistency across the country. For instance, fees for a licence can be £25 in East Lothian but as much as £600 for exactly the same thing in Ayrshire. There are also great differences in the information that each area requires before it issues a licence. There is, at present, no requirement in England and Wales for a similar licence for funfairs. Public entertainment licensing is going to be introduced in England and Wales, but it will be for regulated entertainment only and will not include fairgrounds. In the past, we have asked the Convention of Scottish Local Authorities for help, but to no avail.

11:00

Thirdly, there is a need for affordable permanent sites for showmen's depots that both cater for residential caravans, which we need, and have space for parking fairground equipment. Maintenance of the equipment is essential to meet health and safety requirements.

We are fighting for the acceptance of circular 22/91, which we are told is not valid in Scotland. The circular was issued by the Department of the Environment to give guidance to planning officers, and it explains what is required by showmen. However, we have been told that there is no intention to introduce a similar document in Scotland.

We can provide evidence that circular 22/91 has assisted both showmen and planning authorities in England in dealing with applications. We do not accept the view that showmen's applications should be dealt with under paragraph 26 of the Scottish Executive's planning policy SPP 3, which deals with the accommodation needs of Gypsy Travellers. We are not Gypsy Travellers; we are a totally separate community. We regard ourselves as small businesspeople, not an ethnic minority. Permanent sites would assist in the education of our children and would provide security for our old and retired people.

We have major problems with the way in which we are perceived by the general public. We would like the Executive to assist us in making people more aware of the type of people that we are and of our way of life.

Jackie Baillie: I understand that Gypsy Travellers and show people are entirely different and that, therefore, their needs are different. The

letter that accompanies the petition talks about the education of children and the welfare of the elderly, but your presentation was predominantly business focused. I understand entirely what you are asking for from a business perspective—permanent sites would make your life easier and would make it easier for you to operate across the country. They would satisfy your call for circular 22/91 to be applied equally here. Would it be fair to say that, although there would be positive spin-offs for children and the elderly, your primary purpose is to secure changes to the framework that would make doing business easier?

Philip Paris: I do not agree with that at all. We are travelling show people; we provide family entertainment throughout the country. It would be helpful in a business sense if it were easier to get a licence. I cannot see how the need for sites and the education of our children is necessarily connected with the business side of things. We are a community and we wish to remain so. Most travelling show people can trace their ancestors back at least 100 years, and probably more.

Today we are asking for our children to be better educated than they have been in the past. Unfortunately, although there are various schemes for the education of occupational travellers, there is no substitute for children being in the one place and attending the same school. That is what my children have done, but it involves a lot of travelling back and forward from wherever we are operating in the country. We are looking for more permanent bases where we can leave our family behind and operate as travelling showmen, while our children would attend the same school and have the same opportunities as every other child.

However, we need to be able to pack and maintain our equipment. Circular 22/91, which is one of the main issues that we are discussing today, was issued to explain to planning officers—and whoever else we were making an application to—the needs of travelling show people and that we have dual-purpose sites that are different from Gypsy Traveller sites and other sites. We are not talking about exactly the same sites, but that does not mean that planning policy has to change. We are asking for guidance to be introduced. We cannot produce it here, but we have evidence of planning appeals by showmen in which the reporter has quoted circular 22/91 to support his conclusion. We are asking for something similar to be introduced in Scotland.

Carolyn Leckie: Thank you for coming to speak to your petition. There is a reference in our papers to an on-going dialogue with the Executive. Will you explain how that is going and tell us whether you are getting anywhere and whether anything productive has come out of it? You said that you see yourselves not as an ethnic minority, but as a

community. However, you are raising equal opportunity issues in respect of children, elderly people, access to services and education. Do you agree that the issues that you are raising relate to equal opportunities, or does your belief that you are a community rather than an ethnic minority bar your petition from being considered under an equal opportunities heading?

Philip Paris: We are definitely a community. People in our community have lived in caravans all their lives. When the elderly people retire they do not wish to move into a house; they wish to remain among the people with whom they have lived all their lives, which tends to be on a showmen's site. Families look after their elderly mother or aunt just the same as do people in any other community. We do not see ourselves as an ethnic minority; we are Scottish or British people. We are not immigrants or something different. We live in caravans because we operate a business that travels about. I could provide you with a definition that states what a travelling show person is and what a Gypsy Traveller is. I have nothing against Gypsy Travellers, and I do not wish to sound derogatory in any way, because they have their own problems. The point that I am making is that there is a difference between Gypsy Travellers and show people.

We have been writing to various MSPs for more than two years to try to get something done. At Westminster, the Environment, Transport and Regional Affairs Committee produced a report on travelling fairgrounds, throughout which circular 22/91 is mentioned. People in Scotland who were making applications thought that the circular was valid in Scotland, but they were told that it was not. I have spoken to Brian Donohoe MP, who was one of the members of the committee. He told me that the circular is not valid in Scotland and that now that we have the Scottish Parliament, not much of the committee's report would apply to Scotland. We are looking for recognition of Scottish travelling showmen. If the circular is good enough for showmen in England, it should be good enough for us in Scotland too.

Last year, we raised all these issues in two meetings that we had with two gentlemen—Paul Smart and Jon Owens—from the equalities unit. At the second meeting, we heard the answers that had been sought from the various departments, including an answer on the circular from the planning authorities. The person from the planning authorities said that we should be dealt with under paragraph 26 of SPP 3. When we looked into that, we were not happy because that would put us in with Gypsy Travellers, whereas we are not Gypsy Travellers.

There are definitions for these things. If you look at previous discussions that local authorities in

England and Wales had about how to accommodate Gypsy Travellers, you will see early on in the paperwork that travelling showmen are not included. Putting us into the category of Gypsy Travellers goes against everything that has been published since then.

Carolyn Leckie: I want to tease out some of that. Do you see yourselves as a community that is discriminated against?

Philip Paris: Yes.

Carolyn Leckie: Would you be happy for your issues, concerns and demands to be addressed under the heading of equal opportunities as long as you were treated separately from Gypsy Travellers?

Philip Paris: Yes. I am sorry if I have gone round the houses.

Mike Watson: I want to clarify a couple of things, Mr Paris. I see that you are a member of the Showmen's Guild of Great Britain. Do travelling show people from Scotland travel to England and vice versa?

Philip Paris: Yes.

Mike Watson: Do you benefit from the guidelines for the part of the working year that you are in England and Wales?

Philip Paris: If you are talking about parking sites, most Scottish show people use parking sites in and around Glasgow.

Mike Watson: Sorry—I think that you misunderstood me. When your shows are in England and Wales, do you benefit from the guidance to planning officers that is contained in circular 22/91?

Philip Paris: Circular 22/91 deals with parking sites, not the operation of fairgrounds.

Mike Watson: I see. However, if the guidelines are available in England and Wales, I see no good reason why a similar facility should not be available in Scotland. The committee should highlight that issue.

Where I have slightly less sympathy with Mr Paris is the letter from Jane Rodgers that outlines the five points that you want adopted as national policy. Apart from the third point, which is about the operations of fairgrounds, all those points would apply equally to the needs of Gypsy Travellers, as far as I am aware of those needs.

I can appreciate the difference between show people and Gypsy Travellers, but if I was asked to explain the difference between them, I would probably say that Gypsy Travellers live in poverty whereas show people do not. That seems the most obvious difference. Another difference is that

travelling show people tend to be more warmly received than Gypsy Travellers in the areas that they visit.

There is a misconception here, in as much as the needs of travelling show people and Gypsy Travellers are very much the same. Both communities need a place where they can stay for as long as they need to while they are in an area, and both need access to education and so on while they are in an area. Although I can understand why you want to draw a line between show people and Gypsy Travellers, I am not sure that it is helpful for that line to be too finely drawn, given that the needs of both communities are in many ways similar. Do you accept that?

Philip Paris: There are many similarities between the two groups, but we promote ourselves as small business people. We pay our taxes. I stay in Glasgow just now, where I pay my council tax and am on the electoral register. I am not a homeless person or a person of no fixed abode, although that is how the general public perceives us.

Mike Watson: My perception was that, almost by definition, travelling show people have no fixed abode. Are you saying that travelling show people tend to have a permanent address but travel around in the course of business?

Philip Paris: Unfortunately, that is not widely known by the wider community. If someone wanted to insult me when I am operating my business—to put it bluntly and without wishing to swear—they would call me a Gypsy so-and-so. For a start, I am not a Gypsy.

Mike Watson: I also want to ask about your discussions with the Executive. Our papers suggest that the Executive is keen to maintain an on-going dialogue in order to resolve the issues. Carolyn Leckie might have asked this question, but I did not hear the answer clearly, so will you say whether you think that that on-going involvement with the Executive is likely to resolve the issues?

Philip Paris: We were supposed to have a meeting with the Minister for Communities, Margaret Curran. However, one of our members wrote to the First Minister to raise many of the same issues that I have raised today. He had previously written to Margaret Curran, but her reply more or less repeated word for word what we had been told at the meeting that was attended by the gentleman from the planning authorities. She seemed unwilling to go into the wider issues.

11:15

Mike Watson: Are you saying that the meeting with Margaret Curran will not now take place?

Philip Paris: We hope that it will. We have been advised to submit this petition today as a result of some of the meetings that we have had in the past.

John Farquhar Munro: I am somewhat confused about the terms used in the first five points in the letter received from the Showmen's Guild of Great Britain. The first point relates to the need for "permanent dual purpose sites". Are such sites needed for storage and accommodation, rather than as a location for operating the fairground?

Philip Paris: Such sites are needed not for operating but for our equipment, which is central to our livelihood. In many cases, people are unwilling to be separated from it. Traditionally, we have lived on sites with caravan or chalet accommodation and a separate area that is used for the storage of vehicles and the essential maintenance of equipment.

John Farquhar Munro: Based on what I have seen on the roads when showmen are in transit, there can be a substantial amount of equipment. The showmen will not need a small site, therefore.

Philip Paris: It does not have to be a massive site. We tend to need a number of smaller sites rather than fewer large sites. That seems to be the preferred option.

John Farquhar Munro: If the sites are approved, would the guild wish to have one in each of Glasgow, Stirling, Perth and Aberdeen? That is quite a demand.

Philip Paris: I estimate that 90 per cent of Scottish showmen are based in Glasgow. We have a major problem because one of the main areas in Dalmarnock is due for redevelopment. An interdepartmental report produced by Glasgow City Council states that more than 1,000 show people are living on sites in Dalmarnock and that their relocation will have to be considered at an early stage. We sit on a working group but, having attended a number of meetings, we have yet to be offered any alternative sites. Work will start at Dalmarnock within two years. Some of the sites are rented from the council, but many of them are owned by those who live there and have full planning permission for the use to which they are being put. We have been told that they will be in the way of the development and that those affected will be offered compensation or alternative sites. We are still waiting to find out where the alternative sites will be.

Much of the pressure on the city of Glasgow would be relieved if a policy was in place to assist showmen in acquiring planning permission elsewhere in Scotland. It took more than two years for me to be granted planning permission for a site in Motherwell, although I eventually received

permission for where I want to be. Most showmen live in Glasgow because there is a perception that Glasgow City Council is more used to dealing with show people. When we go to other areas, we find that our circumstances are alien to people there, who immediately think that our children are unwashed and do not go to school. We seem to be placed in a certain category. I am here today to seek assistance in promoting our small businesses. We are not the type of people that many others consider us to be.

John Farquhar Munro: I appreciate that. Point 4 of the letter from the Showmen's Guild of Great Britain states that when traditional fairground sites have been developed or lost for one reason or another, you require alternative sites. You suggest that you should be given a site for permanent occupation—for storage and so on—and also a site on which to operate the fair. If you consider a small town such as Perth—or any other town that you care to mention—you are asking to be allocated a substantial piece of territory for your profession.

Philip Paris: Sites on which we operate fairs and permanent sites are two separate issues. In Wishaw, Hamilton, Dumbarton and elsewhere—the list is endless—what has tended to happen is that although the fairground traditionally operated, sometimes twice a year, on pieces of common land, supermarkets, shopping centres or leisure centres have now been built on the land. It is often difficult to find an alternative site that is within reach of the public, who we need to attend the fair, and alternative sites tend to be on the outskirts of the town, whereas the original site was central.

The Convener: Can I get recommendations from members on what we should do with the petition?

Jackie Baillie: I have a genuine difficulty. I thought that I was being helpful to Mr Paris when I said that, predominantly, I see the petition as being about a set of clear business needs rather than a matter that raises wider equality dimensions and which should therefore be an issue for the Equal Opportunities Committee.

From my perspective, the petitioners are looking for action to address the shortage of suitable sites, action to address the licensing regime and action to deal with permanent sites, fixed as dual-purpose sites under planning guidance. The consequence of doing all that is that there would be the stability showmen currently have for their children and elderly people. The way into the matter is very business focused, in which case I would dispose of the petition differently than if it involved equal opportunities issues. Mr Paris rejected my earlier notion, and I am at a loss as to how to dispose of the petition.

Helen Eadie: I can see where Jackie Baillie is coming from. The petitioner talks about getting acceptance of circular 22/91 into Scottish Executive planning policy, so we should send the petition to the committee that deals with planning issues. However, the issue also relates to providing assistance for a business community; in effect we are talking about a travelling business, so the petition raises travelling enterprise issues. If we want to generate and encourage renewed development, we should consider a mixture of issues—societal issues that are to do with the welfare of showmen's families and business issues. It is hard to say whether we should just send the petition to the Equal Opportunities Committee. If I was going to send the petition anywhere, I would send it to the Communities Committee, which deals with planning issues. However, we should first write to the Scottish Executive to get its feedback. Perhaps we could also ask for guidance from the Scottish Executive, because my perception is that the petition needs to go not only to the Equal Opportunities Committee but to other committees.

In my community in Fife—I know that Philip Paris comes to Fife because we have met before—we have quite good facilities, although they may not be ideal and perhaps they could be improved.

I suggest that, in the first instance, we write to the Scottish Executive, because we should reflect on any good practice that exists.

The Convener: It might be useful to ask the Executive for its views on the guidance that operates in England and whether there are proposals to mirror that guidance in Scotland.

Mike Watson: Further to that point, Mr Paris states in his submission:

"We have been told that there is no intention to introduce a similar document in Scotland."

We should ask the Executive why that is the case.

The Convener: Are members happy with that?

Members indicated agreement.

The Convener: I thank members for that. I also thank Mr Paris for attending.

With that, we have considered all the petitions in relation to which petitioners have attended the committee to speak this morning.

Pyroluria (PE706)

The Convener: The next petition is PE706; I have been dreading this one all morning, because I know that I will mispronounce "pyroluria". The petition was lodged by James A Mackie on behalf of the Overload Network and calls on the Scottish Parliament to urge the Scottish Executive to

ensure that national health service boards recognise, diagnose and appropriately treat pyroluria. Pyroluria is a genetic condition, which can be diagnosed through urine analysis and which can result in symptoms such as severe mood swings, short-term memory problems and depression. The condition has been linked to schizophrenia and can be treated with zinc and vitamin B6 supplements. The NHS information and statistics division does not currently collect data on the incidence, prevalence or treatment of the condition.

Do members have any suggestions about our approach to PE706?

Helen Eadie: As there is no one here to speak to the petition, should we simply write to the Scottish Executive to ask it to comment on the issues that the petition raises? I confess that I have never heard of the condition, so perhaps we could ask the Executive whether it has information about how widespread it is. We could also ask the Executive to comment on the adequacy of the treatment that is provided.

Carolyn Leckie: I agree with Helen Eadie's suggestion. We should ask in particular about the situation in different health boards.

The Convener: Are members happy with the suggestion that we write to the Executive for clarification? I noticed that you all avoided saying the name of the condition.

Members indicated agreement.

Health Service Configuration (Consultation) (PE707)

The Convener: The next petition is PE707, in the name of Professor D Young, which calls on the Scottish Parliament to urge the Scottish Executive to consider a new legal framework for consultation on the configuration of health services, which would include advice on proper use of guidelines on and an independent process for selection of expert advice, particularly where the provision of national services is affected, and to create a process for the establishment of integrated maternal and child health services for Scotland. The petition was prompted by the petitioners' concerns regarding the consultation on the proposed closure of the Queen Mother's maternity hospital at Yorkhill in Glasgow.

Members will recall that at its most recent meeting, the committee considered PE643 on the same topic, which was submitted by Dorothy-Grace Elder, and that we agreed to seek comments from the Minister for Health and Community Care. Professor Young was advised of the action that was being taken in relation to PE643, but he confirmed that he wants to proceed with PE707.

Pauline McNeill is with us this morning—

Ms White: I ask for clarification. Professor Cockburn was particularly interested in attending the meeting to present and speak to the petition, but I have been told that the clerk to the committee advised him that the petition was very similar to the one that Dorothy-Grace Elder and Charles McGhee submitted. Was Professor Cockburn phoned and given the opportunity to come to this meeting, or was he advised not to come along to present the petition to the committee?

The Convener: Everyone who submits a petition is asked whether they want the opportunity to speak to the committee. It is then a question of time management. As the convener of the Public Petitions Committee, I must choose which petitioners will come and speak. It is now nearly 11.30 am and we have heard from speakers to three petitions so far. We discussed the issue extensively at our most recent meeting and I thought that it would be more appropriate to hear today from petitioners who were raising issues that the committee had not previously considered, than it would be to hear from a speaker on a matter that we had already debated.

Pauline McNeill has—

Ms White: Are you saying that Professor Cockburn was phoned and told not to appear in person?

The Convener: Yes.

Ms White: That is indefensible. Professor Cockburn worked hard on the petition with other doctors and was very keen to appear. PE707 raises some different issues from those that were raised in PE643. For example, there was no mention in PE643 of the need to

"create a process for the establishment of integrated Maternal and Child Health services for Scotland."

The Convener: That is why we are considering the petition. We did not need to have the professor before us today—

Ms White: I want to record my dissent. We should be discussing that issue.

The Convener: The issue is being discussed.

Ms White: No it is not. The petitioners were phoned by the committee and told not to come along because similar—not identical—petitions have been discussed previously. I do not believe that it is within the committee's remit to do that.

The Convener: We had six requests to speak at the meeting and I chose three petitioners to come and do so. It has taken us an hour and a half to get through those three petitions. If you want to sit here until well into the afternoon and give everyone who requests the opportunity to come here—

Ms White: It has nothing to do with sitting here. It is to do with choice and fairness.

The Convener: It is about time management. As I said, we are discussing the petition—

Ms White: No, convener, this is absolutely wrong.

11:30

The Convener: If you want to raise any issues from the petition, feel free to do so. However—

Ms White: I have already raised the particular issue that is causing me concern and which should cause concern among everyone round the table, which is that people are being phoned and told not to come to speak to their petitions. Is PE707 similar to the next petition as well?

The Convener: Yes.

Ms White: We were not even informed that the petitioners had been phoned.

The Convener: Are you saying that if anyone and everyone who requests to come here—

Ms White: Absolutely.

The Convener: Well, I cannot agree. That is not within the Public Petitions Committee's remit.

Ms White: That is why the Public Petitions Committee exists. The public should be able to come along here and have their say.

The Convener: Other members now want to—

Ms White: It is not for the convener to pick and choose whom he wishes to come along and give evidence.

The Convener: It is in the standing orders that the convener chooses who comes before the committee. That is done for every meeting and has been the case during the five years of the Parliament.

Ms White: No.

The Convener: The convener chooses who comes before the committee, although I accept that it is a judgment call. You have the right to raise any issues in the petition that you want. However, we must manage the committee's time and I made the decisions about that.

Jackie Baillie: I suggest that, instead of spending our time debating the process, we should debate the substance of the petition, which is far more important. That is how we have operated since I and current committee members who were members of the previous Public Petitions Committee joined the committee. When we start to debate the process, I feel that we lose sight of the petition's argument. Please let us get on to the substance of the petition.

Helen Eadie: Sandra White was present when we agreed the committee's process. She took part in that discussion when we had our away day last year. We decided that there would be a process for the convener within the committee's process.

Carolyn Leckie: It is unfortunate that Professor Cockburn is not here to speak to the petition. As members will recall, PE643 referred specifically to the situation whereby when charitable funding has been given to hospitals, there should be special arrangements in relation to consultation. I agree that some of the issues to which PE707 refers were drawn out in discussion of PE643. However, there are specific proposals in PE707 and references to further evidence. Professor Cockburn's presence would have allowed us to question him on that; it is unfortunate that he is not here.

I appreciate that there are pressures on management of the committee's time, but that could be helped by reducing the time for discussion and individual contributions to allow more people to speak to their petitions. The time does not necessarily need to be managed by reducing the number of people who can speak to petitions. In this case, the exclusion of Professor Cockburn is wrong. As long as my view is recorded, that is fine—I agree that we need to move on to discuss the issues that the petition raises.

The Convener: I take your points on board, but at the next meeting and at every meeting it will still come down to the convener's judgment as to who gets called. If you wanted to raise the issues to which you referred and express concern over Professor Cockburn not being called, you could have approached me before today; you have had the agenda since the weekend. The agenda states who will speak to petitions and who will not, so you could have raised the issue with me earlier. You are raising the issue now, which is taking up time. However, I take on board your advice and in future I will curtail members' lengthy questions and preambles.

Pauline McNeill has come along this morning, having given notice that she wants to discuss PE707, so I invite her to comment on it.

Pauline McNeill (Glasgow Kelvin) (Lab): Thank you, convener. I spoke to the professors who submitted the petition and they were obviously disappointed that they were not allowed to speak to it. However, I think that they understand the Public Petitions Committee's work load.

The professors are keen for a distinction to be made between their petition and the one that Dorothy-Grace Elder submitted. I want to say a few words about why that is the case. PE707 has

been submitted by retired professors who were experts in their field at the Queen Mother's maternity hospital in Glasgow, which faces closure. Some of us in the room have campaigned to save that hospital. However, that is not the petition's primary purpose, which relates to the consultation. As required, there was a pre-consultation process, which consisted of a four-member panel making a recommendation to the health board.

The substance of the petition is that the professors, who are experts in their own field, provided expert opinion about how the service is run, but they cannot trace that in any transcript and cannot find any evidence that what they said during the process was taken account of. Given that the health board has used the information to make a decision, the professors believe that there is a flaw in the process and that a framework, within a new national framework, is needed to remedy that.

The role of national guidance, the expert group on acute maternity services and the British Association of Paediatric Surgeons in Scotland are also specifically mentioned in the petition. The guidance has been misquoted in the consultation process. If that is the basis on which health boards make decisions, and the health board says that the guidance is flawed, there is no mechanism for challenge. The health boards are focusing on the need to consider expert information in the consultation process to see whether there is a means to make a challenge if people are unhappy with the way in which a decision is taken.

I support the petition and thank the committee for giving me a minute to speak to it.

Ms White: I am disappointed because the petition raises issues that only experts could have answered—[*Interruption.*] Would you let me finish, please?

The petition asks for the creation of integrated maternal and child health services. That is something that we should be considering and I support that particular aim of the petition.

To pick up on what Pauline McNeill and Professor Young have said, expert advice was omitted from some of the evidence that was produced by the consultation group. Members are aware of that, but I would have like to have been able to speak to Professor Cockburn and to hear his evidence, which no one has yet seen because the health board has not produced it.

I am concerned by the petition: proper consultation did not take place in that evidence was either withheld or lost, according to the health board. Experts did not even visit the Queen Mum's, the closing down of which has been based on facts that were not widely presented to the public.

We have to take seriously the expert evidence that we have and I fully support everything in the petition. I know that the convener is supportive of the consultation as well as being critical of it and I am sure that he will support the petition. However, it is important to pick up the two main points that the petitioners have made, about the configuration of health services and integrated maternal and child health services. Those are the two main issues in the petition.

I would have liked to ask the petitioners how we could go about that. Those two main issues are separate, but we will await the answer to PE643. PE707 should be treated in the same way as the previous petition: we should send it to the Minister for Health and Community Care, expressing our concerns and those of the experts.

Carolyn Leckie: It would be helpful to have specific documented examples of some of the allegations that are made in the petition, especially those on the misquoting of EGAMS and BAPS. There is additional correspondence that is not included in our papers; I wonder whether that includes examples of those misquotes. If not, it would be helpful if we could put on record what those misquotations are, if Pauline McNeill has them to hand.

The two main points—the legal framework for consultation on the configuration of health services, and the creation of a process for the establishment of integrated maternal and child health services—are relevant to this afternoon's debate on the National Health Service Reform (Scotland) Bill. Both those measures could be possible under the provisions of that bill.

The professors' submissions—in person—should be sought by the Health Committee, if they have not been already, when it considers the National Health Service Reform (Scotland) Bill at stage 2, to see whether the requested measures can be covered by the bill. My views on the proposals for Glasgow's maternity services are well known. The question of the national provision of maternity and child health services should be urgently addressed on a strategic basis.

As with PE643, the issues in PE707 are serious and urgent enough to warrant immediate action. It is suggested that we await the Executive's response to PE643, but the issues that are raised in PE707 are a wee bit different and more complicated. Given the evidence, we must bring the petition immediately to the attention of the Minister for Health and Community Care and ask for his comments. We should also immediately refer the petition to the Health Committee because it is relevant to that committee's current business.

The Convener: We cannot do that at present because we are still gathering information. We will

do as Carolyn Leckie suggests when we receive a response from the Executive. If Carolyn Leckie identifies the misquotations for the clerks, they will check the correspondence and we will flag up the issue to the minister when we write to him.

Carolyn Leckie: I want to ensure that specific examples of the misquoting of EGAMS and BAPS are submitted. The allegation is made in the petition, but there are no examples.

The Convener: If you speak to the clerks about the issue after the meeting, we will ensure that the point is included in the submission to the minister.

John Scott: I, too, support the petitioners' aims and objectives. There is a need throughout Scotland for the introduction of guidelines on consultation procedures. A recent consultation process on paediatric services in Ayrshire left many people there feeling, at best, unhappy with the situation—many people felt very unhappy.

As Carolyn Leckie and I have said before in the committee, there is a growing need for a high-level strategic review of the health service in Scotland. I appreciate the difficulties that are involved with maternity services in Glasgow, but the fact that no decision has been made on that issue is holding back strategic considerations in areas that surround Glasgow, particularly Ayrshire. Maternity services drive the provision of other services. If I have the sequence right, neonatal services come before maternity services and paediatric services come after. The issue of where maternity services and specialist units are to be sited affects the strategic balance of hospitals in the area. That issue must be addressed more coherently than it has been addressed.

Mike Watson: We must respect the fact that we should not discuss the particular case that has been raised in PE707; rather we should discuss the need for proper consultation—which I have raised previously with Greater Glasgow NHS Board in relation to other consultations. The point applies particularly in the case that relates to the petition. With due respect to Professor Cockburn, I am not sure that his presence would have assisted us. He and his colleagues have made four serious allegations, which are not just about the individual case, but about consultation on proposed changes—particularly major ones—by health boards in general throughout Scotland.

The committee should at least ask Greater Glasgow NHS Board for its comments on the allegations, which will inform any debate on whether there should be a properly redrawn consultation and what form that consultation might take.

Helen Eadie: As I am a member of the Health Committee, I know that it has taken the issue of consultation seriously in its consideration of the

National Health Service Reform (Scotland) Bill. The evidence that that committee has received has underpinned the importance of consultation. The point to emphasise is that, although consultation has been taking place in the health service since way back in 1947, the problem that we have had throughout is that consultation means different things to different people. The issue is how to produce guidelines that satisfy the public at large and which close the loop by involving the public. Even though there was a massive consultation on the reconfiguration of health services in Fife, some people were still unhappy at the end of the day. The key criticism was always that the loop had not been closed.

The essential issue is how to make submissions to a consultation publicly available. One good thing about the Scottish Parliament is that many submissions that are made to Scottish Executive consultations are publicly available in the Scottish Parliament information centre, where all MSPs can access them. It is essential that we ensure that when consultations are held all submissions to health boards are available in the public domain.

Can you provide guidance on how we should deal with the matter? Will we wait to discuss it further or will we proceed before we receive a response from the minister, given that some of the issues relate to PE643? Do you intend to make other suggestions today?

11:45

The Convener: I will take suggestions on that. If we want to retain possession of the petition, we cannot refer it to another committee and ask that committee to do something with it. If we refer it to another committee, the petition will become the other committee's petition, so we must be careful. We can send the petition to another committee for information, but if we want to retain control of the information that is received from elsewhere we cannot refer the petition to another committee until we have decided what we want that committee to do with it. We can send the committee to the Executive and inform the Health Committee that we have done so. I am not recommending that—I am simply clarifying the process.

Does Robin Harper want to say something on this issue?

Robin Harper (Lothians) (Green): No, I am waiting for the committee to discuss PE712.

Pauline McNeill: I want to clarify an issue that relates to the Helen Eadie's last point. Although the petitioners are calling for a number of things, including the creation of a process for the establishment of integrated maternal and child health services for Scotland, their emphasis is clearly on expert advice. The petitioners are

retired professors who ran genetics and specialist services. They are saying that their expert advice was ignored and they seek to ensure that the process addresses that specific point. Carolyn Leckie said that Scottish Executive guidance was misquoted in documentation. I am absolutely certain that the petitioners would provide the committee with evidence of that, if members wished. I want to distinguish that point from the general issues relating to consultation. The petitioners are focusing narrowly on expert advice and the misquoting of national guidelines.

The Convener: As I said, the clerks will check that and we will put the specific questions that Pauline McNeill has raised to the minister, if the committee decides to send the petition to him. The accusation of misquoting and failure to consult are part of the petition. We must check those issues before we ask the minister about them.

Carolyn Leckie: My point relates to the convener's comments and my previous comments. I am keen to pursue the matter. The issue of expert advice, as well as that of public consultation, could have been dealt by the National Health Service Reform (Scotland) Bill. I understand that the Public Petitions Committee is keen to retain control of the petition, so that we can be satisfied that appropriate action is taken. However, we should send everything that we have received to the Health Committee, if only for its information, as soon as possible. That would enable that committee to address the points and arguments that have been made, to seek evidence from the professors on the issues of consultation and the use of expert advice and to consider whether those can be dealt with in the National Health Service Reform (Scotland) Bill, which provides us with an opportunity. Parliament does not often consider legislation that could deal as quickly with issues that are raised in a petition as may be possible in this case. It is important that the Health Committee has the opportunity to do that.

Jackie Baillie: I will suggest something slightly different. There are two issues. The first is the clear flaws—which were amplified by Pauline McNeill—in the consultation process, and the fact that expert opinion was, to all intents and purposes, ignored. That relates to the short-term proposal, which is the closure of the Queen Mother's hospital. The second issue is how those flaws are learned from for the long term, which is where the National Health Service Reform (Scotland) Bill comes in.

It would be perfectly legitimate for us not to defer consideration of the petition, but to say to the minister, "Here is another one on the Queen Mother's hospital. It is on the broad field of consultation, although on a very specific point.

Could you include in your reply before 19 March consideration of PE707 as well?" We could then turn it round quite quickly, and go to the Health Committee.

It is not beyond the wit of members to say to members of the Health Committee that they might want to be aware of the presence of the petitions, without our formally referring a petition. That would address the short-term urgent need to place PE707 before the Minister for Health and Community Care, as well as the longer-term need for us to ensure that we learn from the flaws. We should not just push everything to the Health Committee at this stage.

Helen Eadie: On a point of information, this afternoon in the Parliament is the stage 1 debate on the National Health Service Reform (Scotland) Bill. Any member of the committee who wants to participate in the debate and make such points can do so this afternoon.

The Convener: Are members happy with Jackie Baillie's suggestion that the Executive be contacted with the specific recommendations?

Carolyn Leckie: I do not have any difficulty with that, but can we pass the petition to the Health Committee for information?

The Convener: Yes, there is no difficulty with that. Are members happy with that process?

Mike Watson: Will my suggestion to ask Greater Glasgow NHS Board for its comments be taken on board as well?

The Convener: Will we ask that health board to comment?

Members indicated agreement.

Green-belt Land (Legal Protection) (PE712)

The Convener: The final new petition is PE712, from Shirley McGrath, on behalf of Viewpark conservation group, which calls on Parliament to urge the Executive to ensure that green-belt land is given appropriate legal protection. The petitioners are concerned about the potential impact on wildlife of a proposed development in an area of green-belt land in Lanarkshire. Before being formally lodged, the petition was hosted on the e-petitioner site, where it gathered 260 electronic signatures. As members will be aware, the Executive is in the process of preparing to introduce a planning bill, and will conduct further detailed consultations to identify some of that bill's likely content early this year.

Before we consider the petition, I bring members' attention to my entry in the register of interests. I do not have a constituency interest in the development, but the parent company of the developer was formerly based in my constituency,

and for two years supported a competition that I ran in primary schools in my constituency. I thought that I should register that on the record.

Robin Harper and Alex Neil are here. Do you have anything to say?

Robin Harper: I am here as the member for Lothians to speak to the general concerns that are raised by PE712. Last night, I hosted a meeting in this room, at which 20 students from the University of Edinburgh presented research that they have done on planning laws in relation to green belts. They said that there is a growing perception—and I say perception, right or wrong—that Scottish green belts are being treated as land banks, rather than as protection for the environment. That is a serious issue. At the meeting, a considerable number of community councillors expressed concern about how the green belt around Edinburgh is being treated.

Not only because of the local issues, but because it raises national concerns, I recommend strongly that PE712 be referred to the Executive, and that the Executive be asked to respond before the planning legislation is produced. It would be good to know in advance what the legislative attitude will be towards green belts.

The petition should also be drawn to the attention of the relevant committee—I am not aware of which committee has been chosen to deal with the planning bill when it comes before Parliament. I will keep my remarks as brief as that.

Alex Neil (Central Scotland) (SNP): I, too, will keep my remarks brief. First, I apologise to the convener for not being able to give notice that I would be here; I had thought that I had something else on.

The petition arises primarily from the planning application in respect of the Douglas support estate. There are two issues involved: the green-belt issue and the fact that some rare species inhabit the land in question. Robin Harper has already articulated some general concerns about erosion of the green belt. Although some flexibility is always required, sometimes that flexibility might be one-sided. The concern is that the proposed erosion of the green belt to which the petition relates is particularly unnecessary, given the amount of vacant land that is fairly near the site in question. It is not reckoned that the land that is the subject of the proposed development is in any way required to meet the industrial or commercial needs of the local economy. A desire to protect the green belt lies behind the petition. It is particularly annoying that, in this case, the erosion of the green belt would be highly unnecessary, because alternative land is readily available within a few miles.

The second issue, which goes along with the first, is the protection of rare species of wildlife.

That may be more a matter for amendment during stage 3 of the Nature Conservation (Scotland) Bill.

The green-belt aspect is for the forthcoming planning bill, but wildlife should be dealt with in the Nature Conservation (Scotland) Bill. There is an issue about uniqueness—a number of rare species in the green belt are potentially under threat and, quite frankly, to disturb them unnecessarily would be counter to all that we are trying to achieve in the Nature Conservation (Scotland) Bill and, I hope, the proposed planning bill. I support the petitioners' intentions. The case highlights the special problems that we face in particular areas and I hope that the Public Petitions Committee will be able to take up the matter with ministers and other committees, as appropriate.

The Convener: Do members have any comments?

Carolyn Leckie: I support the petition. There is obviously a bit more time in relation to the planning bill, so I support the idea of referring the petition to the Executive to get its views on the proposed legislation. We should also refer it to the Environment and Rural Development Committee to find out whether there is a way that some of the concerns can be taken on board in the context of the Nature Conservation (Scotland) Bill.

The Convener: Are members happy with that?

Mike Watson: I am happy with that suggestion, but there is another point. Members received a letter from Brian Clarke of Park Lane Palisade Ltd, in which he says that he learned of the petition only by chance. He asks that, in future, parties that find themselves in the same position that his company is in be at least informed of the issues that are being discussed. I would like to ask the clerk whether that is usually the case. If it is not, Mr Clarke's request seems to be reasonable.

The Convener: I hold a similar view. I spoke to the clerks yesterday. The problem is specific to e-petitions. If a person sends in a petition, it is not published and the paperwork on petitions that are not electronic is not made public until we discuss the petition. An e-petition is different in that whatever the petitioner and anyone else who wishes to contribute to the discussion on the e-petition site say is made known to the public. This is the first occasion on which it has been highlighted that, if someone makes a specific point in relation to an individual or a company, it might be appropriate—out of courtesy, if nothing else—to advise the relevant person or company that the comment has been made, in case they wish to respond to it. PE712 has highlighted an issue that we had not thought of before; the international teledemocracy centre at Napier University has been asked to investigate how it can flag up any

such issues in future. I thought that Mr Clarke's request was reasonable.

Are members happy that we refer the petition to those in the Executive who are involved in the proposed planning bill and the Nature Conservation (Scotland) Bill?

Members indicated agreement.

The Convener: I suggest that, as it is 12 o'clock and we still have a number of issues to go through, we should take five minutes for a comfort break. That will allow us to focus and concentrate better.

11:59

Meeting suspended.

12:09

On resuming—

Current Petitions

Scottish Transport Group Pension Funds (PE500)

The Convener: The first current petition is PE500, on the Scottish Transport Group pension funds. The petitioners call on the Scottish Parliament to urge the Scottish Executive to increase at the earliest possible date the amount that is on offer to former members of the Scottish Transport Group pension funds so that they receive maximum benefit from the pension fund surplus.

At its meeting on 18 March 2003, the committee agreed to write to the Executive to highlight the apparent differences between the positions of HM Treasury and the Executive regarding responsibility for the pension fund surplus. The committee also suggested that it would benefit the pensioners if any secondary payments to those who had already received a payment from the first tranche could be made during the next financial year. The Executive responded to the committee on 24 March 2003, and the committee agreed to defer further consideration of the petition until the new session of Parliament. The response from the Deputy Minister for Enterprise, Transport and Lifelong Learning appears to explain the perceived contradiction between the positions of the Treasury and the Executive. He also confirms:

"the second tranche payments are to be made early in the new financial year, possibly May 2003".

Dennis Canavan is here to speak to the petition.

Dennis Canavan (Falkirk West) (Ind): Thank you for allowing me to address the committee. I promise that I will be brief. It will save time if members refer to the briefing paper that I have prepared, which has been circulated by the clerks.

I have been asked by the pensioners action committee to convey thanks to the convener, to the Public Petitions Committee and to the previous Public Petitions Committee, under the convenership of John McAllion, for the good work that they have done on the issue over a period of years. Thanks largely to the committee's work, most of the pensioners have received at least one ex gratia payment from the STG pension fund surplus. However, as I have noted in the briefing paper, there are at least four outstanding issues.

First, the original amount in the fund surplus was £270 million, but if we deduct 35 per cent corporation tax and the sum that the Executive allocated for ex gratia payments, we are still left

with £49.5 million. The pensioners have never been given a satisfactory explanation of where that money has gone. Has it gone to the Scottish consolidated fund or to the UK consolidated fund? Or has it just disappeared into a big black hole somewhere?

Secondly, both corporation tax and income tax have been deducted from the payments. Normally, ex gratia payments from a pension fund are free of income tax but, in this case, pensioners have had income tax deducted from their payments despite the fact that corporation tax was sliced off at an earlier stage. The committee wrote to the Inland Revenue on that issue of double taxation, as members will see from the note that has been prepared by the clerk, but I do not think that it has received a reply.

The third point is on accumulated interest. Way back in December 2000, the then First Minister and the Chancellor of the Exchequer made a joint announcement about the ex gratia payments but, between that date and the date of payments to the pensioners, there was presumably an accumulation of interest. The pensioners feel strongly that the interest should be added to the amount that is available for ex gratia payments.

Fourthly, in reply to a recent parliamentary question, the Scottish Executive told me that even by its calculations a residual sum of £4.3 million is left out of the £126 million that was allocated for ex gratia payments. The Scottish Public Pensions Agency states that it is still waiting for late claims to be submitted—that is why it seems to be reluctant to part with the remaining sum. However, the pensioners have suggested to me that the Executive or the agency should set a deadline for claims and then distribute the residual sum by further payments to all those who have submitted valid claims by the stipulated deadline. I therefore suggest that the committee write to Nicol Stephen, the minister who is responsible, regarding points 1, 3 and 4, and to the Inland Revenue regarding point 2, if the committee has not already received a reply from it.

12:15

The Convener: The clerks have checked and have no record of a reply from the Inland Revenue regarding point 2. I have asked them to double-check whether that is the case. If we have received no reply, the clerks can contact the Inland Revenue and ask for one. Do members have any other comments on the points that have been raised?

Carolyn Leckie: I second Dennis Canavan's proposals.

The Convener: I am not unhappy about asking questions on these points, but I would like some

clarification on point 4. The pensioners who have contacted me have asked whether it is Treasury rules that determine where any unclaimed funds would go. Is it the case that it would not be for the Scottish Executive to determine that?

Dennis Canavan: No, I think that that would be for the Scottish Executive to determine. We are talking about a residual sum out of the £126 million that has already been agreed. There is no dispute between the Scottish Executive and the Government at Whitehall about the £126 million that has been allocated for ex gratia payments. However, there is still £4.3 million of it left, which has not been paid out so far because the Scottish Public Pensions Agency, which distributes the money on behalf of the Executive, wonders whether there might be some late claims still to come in. It would be reasonable to assume—as the pensioners action committee has suggested to me—that the Executive should set a deadline for the submission of claims. Following that deadline, the agency should distribute what is left to those who have submitted valid claims, in proportion to their length of service or the contributions that they have made to the funds during their working lives.

The Convener: I fully understand that that is what the pensioners group is asking for. However, their concern is that the Executive may not be able to determine that, as there may be a Treasury rule about unclaimed sums in a pension fund, and that even the setting of a deadline would not allow the money to be paid out because it technically belonged to someone else and could not be redistributed. If the money is not claimed, it may belong to the Treasury.

Dennis Canavan: I am aware of that argument. If the committee wrote to the minister, asking for an explanation of the situation, that would help to clarify matters.

The Convener: Okay. We will add that to the list of questions.

John Farquhar Munro: I would like some clarification. Point 1 on the briefing paper states that there is a remainder of £49.5 million in the fund. However, point 4 refers to the Executive's response that there is a residual sum of £4.3 million. Why is there a discrepancy between the two figures?

Dennis Canavan: That is a good question, which requires clarification. The £49.5 million is the remainder out of the gross sum in the pension fund's surplus. The £4.3 million, which is referred to in point 4, is what is left out of the £126 million that the Executive and the Government have agreed should be distributed in ex gratia payments.

John Farquhar Munro: Do we know where the £49.5 million has gone?

Dennis Canavan: No, we do not. It must have gone to either the Scottish consolidated fund or the UK consolidated fund. The question is why the Government or the Executive is holding on to that money, which came out of the pensioners' fund.

John Farquhar Munro: Is that something that we could get an answer to, convener?

The Convener: I think that we should ask all the questions that Dennis Canavan has put to the committee. The committee seems to feel that we should at least ask them—it is as important to have that information as it is to have the money. Precedents are involved and it would be useful to get an explanation from the relevant ministries as to how the system operates in respect of the pension funds. We can ask the questions, but we will have to await the outcome of the replies before we can determine what else to do with petition PE500.

Ms White: I agree entirely with the convener. I thank Dennis Canavan for the paper that he provided to the committee. Looking through the rest of the paperwork, I think that it is difficult to extract the relevant facts and figures. His paper made the issue much simpler and it helped me to understand where the money has gone. We should ask the relevant agencies and ministers the questions that Dennis Canavan has posed. The situation has gone on for far too long and has been debated in the Parliament. The sooner we get an answer to the questions, the better it will be for everyone involved.

Mike Watson: Again, I have one or two points of clarification to ask of Dennis Canavan in respect of the £49 million remainder. Why was only £126 million distributed and not the full amount? At the back of my mind from the time that this was debated in the Parliament, I recall that that had something to do with the amount that was given out to pensioners in the English scheme. Is that right?

Dennis Canavan: That is correct. The scheme for the transport group south of the border was different in some respects. However, the Treasury and the Scottish Executive decided that there should be a rough parity between the Scottish and English schemes in respect of the ex gratia payments. However, if the calculations are done in percentage terms, pensioners in England received ex gratia payments that were about 60 per cent of their surplus. In Scotland, the figure does not work out at 60 per cent at all, especially if double taxation is taken into account.

Mike Watson: My second point relates to something that you said earlier about the setting of a deadline for claims, after which residual payments could be made to all of those who had submitted valid claims. In cases in which

pensioners had received an ex gratia payment but died after the payment was made, should the residual payments go to their widows, widowers or families?

Dennis Canavan: That would happen in any case. The qualification is that the beneficiary was alive in December 2000. I think that the date was 20 December or thereabouts, which was the date on which Gordon Brown and Henry McLeish, who was at that time the First Minister, made the joint announcement. Obviously, if someone died after that date, the money would go to their estate, which means that their family would get the benefit.

John Scott: Do you agree that, given the need to track down as many people as possible, a very small part of the unclaimed £4.3 million should be used to try to trace those who are entitled to it? I am surprised that no one else has thought of that.

Dennis Canavan: The Executive has gone to considerable efforts to publicise the matter in newspaper advertisements and so forth. It is highly unlikely that late claims will come forward at this stage. I think that it is reasonable to set a deadline.

The Convener: Dennis Canavan and members of the committee have posed a series of questions. I suggest that the clerks collate them and that we then write to the minister. I hope that we get some responses that will enable us to discuss the matter further. Do members agree that that is what we should do?

Members indicated agreement.

Dennis Canavan: Thank you, convener.

State Hospital (PE440)

The Convener: The next petition is PE440, which concerns the transfer and release of patients from the state hospital at Carstairs. The petitioners call on the Scottish Parliament to investigate the problems that are being faced by patients who are ready to be released or transferred from the state hospital at Carstairs.

At its meeting on 12 November 2003, the committee agreed to write to the Scottish Executive to establish whether the timescale for the managed care network and the development of a national plan is on target. In its response, the Executive states:

“One of the key drivers in relation to the timescale for the development of services for mentally disordered offenders is the right of appeal against detention in conditions of excessive security provided for in the Mental Health (Care and Treatment)(Scotland) Act 2003. As has been confirmed, that right of appeal must come into effect no later than the summer of 2006. This points to the need for the National Advisory Board that is steering the work of the Managed Care Network to have an agreed national plan by

spring of 2005. The work programme provides for this timetable to be achieved."

However, the petitioners state:

"It is our belief ... that people are being put out without adequate services in place and a tragedy is just around the corner resulting in more stigma."

Do members have comments?

Carolyn Leckie: The petition was lodged on 20 December 2001. Is there any information on the situation of the patient whom the petition identified and the other patients to whom it referred? Is the patient who was identified still in Carstairs?

The Convener: I do not know whether we could look into that. The petition is about whether an adequate plan is going to be produced in a given timescale. According to the Executive's report it has outlined when that is going to happen. I do not know what more we can do. It is appropriate that individual issues are raised, but I do not know whether the committee can—

Carolyn Leckie: It is difficult for me to judge whether the Executive's response is adequate or the timetable is adequate when I do not know whether the case that prompted the petition has been resolved. If the patients identified on 20 December 2001 who were deemed to be fit to be released from Carstairs are still there, the timetable has been too long and the Executive response is not adequate.

The Convener: We could write to the petitioner and ask whether they are aware of what has happened in the case that prompted the petition and whether the timescale will address the concerns that the petitioners have.

John Scott: We welcome the fact that the national plan will be introduced by spring 2005, but could we also write to the Executive and ask it whether, given the length of time that the process has taken, there is any way that the plan could be introduced before then? I do not know whether that is practical, but if we do not ask, we will not get.

The Convener: What do other members think?

Carolyn Leckie: I suspect that the answer will be that the plan has not been implemented because of the slow progress in the building of the medium secure units, but it is worth asking the question. We have noted our concerns before about the speed of the provision of medium secure units. I just wanted to put that on record again.

The Convener: Are members happy to write and ask whether the introduction of the plan is dependent on the MSU programme, for clarification if nothing else?

Members indicated agreement.

Palestine (PE536)

The Convener: The next petition is PE536, which is on advice to the Palestinian legislature. The petitioners call on the Scottish Parliament to offer advice and training to those involved in running the Palestinian legislature and institutions following or preceding elections and on communicating the proceedings of the Palestinian Legislative Council to the Palestinian nation.

At its meeting on 12 November 2003, the committee agreed to refer the petition to the Scottish Parliamentary Corporate Body. The Presiding Officer states in his response:

"In some ways events in the Scottish Parliament have overtaken the issues which arise in your letter. The Scottish Parliament has in fact already begun to assist the Palestinian Legislative Council."

His response sets out work that has already been carried out. Pauline McNeill is here, because she wanted to comment on the petition before we discussed it.

Pauline McNeill: I have brief comments to make. I thank the committee for the action that it has taken on the petition, which resulted in a superb visit by members of the Palestinian Legislative Council, which was supported by the external liaison unit and the British Council. The day was useful for the members of the Legislative Council, so I am grateful that the committee decided to take the action that it did, because it had a positive outcome. My only comment is that I hope that the link can be left open. As convener of the cross-party group in the Scottish Parliament on Palestine, I am keen that we should send a delegation at some point, supported properly by the British Council and the Parliament.

I am keen to keep the channel of communication open, if there is a way to do so, as that would be useful. Members will appreciate the difficulties involved, and will know that the Palestinian Legislative Council cannot meet whenever it wants to, because of the occupation. It is not possible for us to set a timetable at the moment. I wanted to ensure that members were aware of the difficulties. However, to allow another Parliament to learn from us, and perhaps vice versa, would be a positive and useful contribution.

Mike Watson: I echo Pauline McNeill's comments—we are both members of the cross-party group on Palestine. I am a little bit concerned about the Presiding Officer's response. In the third paragraph, he refers to the assistance that may be provided. He continues:

"The Corporate Body however, were not able to undertake, for example, to fund any programme of training, nor to pay travel costs for visiting delegations in either direction, nor to devote significant staff time to any assistance."

We could debate what “significant staff time” is, but it seems odd that no funding at all is available through the external liaison unit for that sort of work. It would seem to me that we have an important role, and not just in relation to the Palestinian Legislative Council. We should think of the emerging Governments in various other parts of the world that might want to see what we have done here. It might be appropriate for us to send people out to those places, for however limited a period, to assist with the process. I find it surprising that there are no funds available at all.

I know that the external liaison unit works with the British Council. However, the British Council pays only for incoming delegations. I wonder whether we could suggest that representatives of the Parliament speak to the British Council. I know that it has an east Jerusalem office, and it used to have a Gaza office, although I am not sure whether that is still open. We could speak about the British Council funding, or partly funding, an incoming delegation of Scottish Parliament staff, so that they can help there. If the Scottish Parliament could make some contribution, that could perhaps be done jointly with the British Council, given that that link, with the British Council bringing Palestinians here to Scotland, has already been established.

12:30

Helen Eadie: I support what Mike Watson has just said. Looking at the wider context of external organisations that might be able to help with grant funding, I think that we ought to be alert to any opportunities that come up, and to any ideas that might be eligible for assistance in tackling some of the priorities that elected members feel to be important. We should all be mindful of anything that we find arriving on our desks that could help to support such initiatives. That could relate to other emerging democracies across the world, as Mike Watson said. We ought to ensure that we feed these thoughts to Pauline McNeill and others on the cross-party group, and to George Reid at the corporate body level.

Mike Watson: I have a further point about the Presiding Officer's letter. Its final paragraph refers to a letter from Mr Stanley Grossman. It says:

“I enclose a copy of my reply to Mr Grossman for the Committee's information.”

However, that was not included with my papers. I am not sure whether other members got it, but I would be interested to see that correspondence.

Carolyn Leckie: I would like to clarify whether the funding arrangements that Mike Watson is asking about apply across the board. I would like to examine what the processes might be if the Parliament were to allocate funding to assist a

delegation to go to Palestine—which I would support—and what that would mean for any other requests for delegations to go to other countries, the most topical example being Saudi Arabia. There would need to be a process whereby what is and is not appropriate is determined politically.

The Convener: The question is to do with identifying the process, which is always worth clarifying, rather than supporting one request against another. That aside, is everyone happy writing to the British Council in line with Mike Watson's suggestion?

Members indicated agreement.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (PE601)

The Convener: The petitioner behind PE601 calls on the Scottish Parliament to take the necessary steps to commence sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which will allow interested parties to make submissions for rights of audience in Scottish courts.

At its meeting on 25 June 2003, the committee welcomed the Executive's proposal to revisit the issue of the commencement of sections 25 to 29, and it invited the Executive to provide details of how it intends to progress the matter, and to what timescale.

The Executive has decided to carry out a survey of the demands for rights of audience or rights to conduct litigation from professional and other bodies and the users of legal services. The research report is likely to be available in early 2005.

In further evidence to the committee, the petitioner asked whether the committee can

“at the very least, insist on a proper explanation from the Executive as to why the commencement of Sections 25 to 29 would not be of benefit to the people of Scotland”.

Do members have any comments?

Ms White: I am always supportive of people's rights to represent themselves in the field of justice and other fields and do not understand why provisions have been thought to be okay and have been passed in England and Wales but not in Scotland. I would like clarification about that. We should write to the Executive and ask why it is not following the same road and why it wants to consider how many people might be interested in rights of audience or rights to conduct litigation. We should ask the Executive why it is not naturally implementing the provisions that have been implemented in England and Wales.

The Convener: Do members agree with that proposal?

Members indicated agreement.

Domestic Abuse Policy (PE644)

The Convener: Petition PE644 is on the Scottish Executive's domestic abuse policy. The petitioners call on the Scottish Parliament to urge the Scottish Executive to develop its current gender-based policy on domestic abuse to include all other forms of abuse that take place in a domestic setting.

At its meeting on 12 November 2003, the committee agreed to ask the Executive whether it intended to conduct more research into the matter in order to determine the scale of the problem and to tailor policies and resources to meet the needs of those victims accordingly.

The Executive's response states:

"The Scottish Executive has accepted the definition of domestic abuse contained in the National Strategy to Address Domestic Abuse in Scotland. That is, that it is perpetrated by partners or ex-partners and that it is most commonly perpetrated by men against women."

The letter also states:

"The Executive has carried out research to determine the prevalence of domestic abuse against men".

That research, which was published in September 2002, found that male victims' experience of abuse

"was less frequent and less severe than that experienced by female victims."

Do members have any comments?

Ms White: I sympathise with what the petition says to a certain extent. Perhaps we should write to the Executive about the matter.

We talk about abuse when we really mean assault. The words "domestic abuse" annoy me, whichever gender perpetrates it, because we mean assault when we use those words. I sympathise in that respect and wonder whether we should write to the petitioners to ask whether they are satisfied with the response that we received.

Carolyn Leckie: If I remember it correctly, I completely agree with the Executive's analysis of what domestic abuse is and who most commonly perpetrates it. The petitioners have raised resourcing issues relating to tackling non-female domestic abuse. I think that their request for action for such abuse to be mainstreamed into domestic abuse policy resulted from their concerns about there being a lack of attention to and resources for the problem and about male victims of abuse not being supported, treated or given access to any resources. I am sympathetic to and support the proposal to seek a response from the petitioners in order to find out what they have to say before we pursue the matter. I am a wee bit worried that it would be convenient to wrap up the response with

a definition without addressing issues relating to resources, care and services, which are really what prompted the petition.

Jackie Baillie: I am happy for the committee to write back to the petitioners. However, for the avoidance of doubt, I want to say that the Executive's response relates to an initiative that was taken by Margaret Curran, the Minister for Communities, to draw the attention of service providers to the report so that they co-ordinate services for the small proportion of men who are abused. Therefore, the points that have been made have been accommodated. However, I do not have a problem with the committee writing back to the petitioners.

The Convener: Are members happy with that proposal?

Members indicated agreement.

Terrestrial Trunked Radio Communication Masts (PE650)

The Convener: Petition PE650 is on terrestrial trunked radio—TETRA—communication masts. The petitioner calls on the Scottish Parliament to take the necessary steps to delay the installation of TETRA communication masts in Scotland until potential health risks have been properly assessed and the relevant planning guidance has been amended to incorporate mandatory health and safety standards.

At its meeting on 1 October 2003, the committee agreed to write to the Executive and O2 Airwave. In its response, the Executive states:

"In the light of the results of recent health studies we have no plans to change the guidance issued to planning authorities on this particular issue."

The Executive also states that although it is not possible to say with absolute certainty that there are no health risks associated with the use of mobile telecommunications equipment, including TETRA handsets and associated base stations, the evidence to date has not shown a link between the technology and ill health. In its response, O2 Airwave emphasised that it,

"as the company responsible for building and operating the Airwave service, plays no role in setting the safety guidelines that apply in the field of radio communications ... Our responsibility is to ensure that we comply with those guidelines."

The committee has also received several letters and an e-mail supporting the petition, which have been circulated to members. Mark Ruskell is here to comment.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): I will keep my comments brief.

I have not had the opportunity of looking at the responses from the Executive or from Airwave and

neither have the petitioners. I recommend that the committee takes swift action on the petition and designates a lead committee to consider the issue in a lot more detail.

I have two reasons for saying that. First, there are still significant disagreements between scientists about the technical aspects of the system and the associated health concerns. For example, O2 Airwave maintains that its masts do not pulse, but on 24 October 2003, independent scientists found that one of the TETRA masts in operation on the Isle of Wight pulses. There are significant disagreements that have to be considered.

Secondly, the system is being rolled out now. Hundreds of planning applications for TETRA masts in Scotland are being approved. That is a breach of the precautionary principle that the Stewart report on mobile telecommunications recommended for consideration of low-frequency systems such as TETRA. We should look before we leap and that is why a lead committee should consider the issue urgently. We have to be sure that the system is safe before we roll it out, not while we are rolling it out.

Carolyn Leckie: From previous briefings, and from the responses from the Executive and O2, it is clear that the sides are polarised on the issue. The precautionary principle should apply until further research has been conducted. I am certainly concerned to prevent planning applications being granted until then.

The burden of proof that it is safe should be on the people who are trying to roll out TETRA, but it is impossible to prove that given the short history of the technology. We should do whatever we can to arrest the roll out until all the questions are raised.

I do not think that writing to the petitioners to ask for their response to the responses will get us any more information than we already have. It is perfectly clear that they will disagree with the responses on the safety of the TETRA masts. The petition should be referred to a committee for a proper investigation of all the issues. The question is, which committee will deal with it? There are planning, environmental and health issues. I would appreciate hearing Mark Ruskell's opinion, but I am leaning towards the Health Committee because we have to determine the health issues and that can inform any legislation that is required by planning or environmental authorities. I am open to other suggestions.

Helen Eadie: I was on the Transport and the Environment Committee during the first session of the Parliament when the issue was discussed and investigated. Andy Kerr was the convener. The committee's view was based on the expert advice

and opinion that we had at the time and was that health ought to be a material consideration when it comes to the planning framework. That was included in the committee's report.

I say that with the knowledge that when we considered the European context, the experts that were working at European level referred to the International Commission on Non-Ionizing Radiation Protection guidelines, which set acceptable radiation levels. The safety threshold that those guidelines set has been lower than that set by National Radiological Protection Board guidelines.

I know that the Executive is trying to balance the concern that exists against the need to ensure that we roll out the new technology across Scotland as swiftly as possible. However, there is a case for revisiting the question of whether health should be a material aspect of planning consideration. Parliament as a whole was not satisfied with the response that we received from the Scottish Executive the first time around. I cannot comment on TETRA, but my thinking is coloured by my having been involved in the major investigation that took place. The unanimous view of the Transport and the Environment Committee was that health should be a material consideration in the planning framework.

12:45

Mike Watson: Helen Eadie has largely covered the issue that I wanted to raise. I intended to ask whether the issue was covered in the Transport and the Environment Committee report. The answer is clear from what Helen Eadie has said.

John Scott: It is my understanding—Helen Eadie will correct me if I am wrong—that the Stewart committee said that there was no danger. The basis of the Stewart report was that the risks were well within the guidelines so there were no health considerations as such.

Helen Eadie: I must be careful about what I say here. I recall that the Stewart report was not as clear-cut as John Scott is suggesting. I am fudging the issue because I do not recall absolutely what the report said and would want to check it.

John Scott: I appreciate that there are issues and genuine concerns about these and other masts. Notwithstanding what Mark Ruskell says, the weight of scientific evidence is that the masts do not cause health problems. I stand to be corrected.

Helen Eadie: What I say is based not just on the Stewart report but on the evidence of experts who appeared before the Transport and the Environment Committee. We focused specifically on this matter, as the *Official Report* of our

discussions makes clear. An expert advisory group to consider the matter has been set up at European level and its work is continuing. One report that was issued at European level recommended that we should adhere to the precautionary principle. There are now on-going discussions and a further expert advisory group has been established. We need to be mindful of the fact that across Europe there are concerns about masts.

No one is saying that masts are definitely harmful or not harmful. It is reasonable to say that the precautionary principle is being interpreted in a variety of ways. Some say that they will not have masts near hospitals and schools or in public locations where populations are very dense. Others say that it is okay to have masts in less populated areas. Because there is such a variety of views and because the jury is still out on many aspects of the issue, there is a need to monitor policy development at EU level on an on-going basis. As the "You and Yours" Radio 4 programme showed, last year Holland took a specific approach to the issue. It should be the task of someone, somewhere in the Parliament to draw together all that intelligence. That may be a matter for the Health Committee or for the Environment and Rural Development Committee.

Jackie Baillie: I do not want to confuse matters further, but I suggest that this is an issue for the Communities Committee. I will explain why I believe that to be the case.

Previously the Scottish Parliament acknowledged clearly the wider concerns of the general public. I would be disinclined to interpret and reinterpret here expert evidence that has been given elsewhere. We should refer the matter to another committee.

I note from the Executive's response that it expects to publish a report early this year that deals with the effectiveness of the current regulations and that it will pass to the Communities Committee. Although the scope of that report is not as wide as I suspect that committee members would want it to be, I would have thought that, given the fact that the policy lead is a planning one, the Communities Committee is the most sensible place to deal with the petition—not least because, according to the Executive's letter, around 583 planning applications have been made for the development of TETRA masts in Scotland, of which 478 have been approved. Things are moving quite fast, and the Communities Committee might be the right place for the petition to be sent.

Mr Ruskell: I want to draw a useful distinction between TETRA and mobile communications systems in general. I am aware of the good work that was done by committee members during the

previous Parliament in considering the wider issue of mobile telecommunications systems and the guidelines, which you mentioned. However, the petitioners' concerns are around the specific aspects of TETRA that are unique and different from conventional mobile phone technology.

You mentioned the International Commission on Non-Ionizing Radiation Protection guidelines. To my knowledge, those deal primarily with the heating effects of mobile phone radiation, not with the pulsing effects. We should not disregard what Helen Eadie is saying, as there is important work to be done following the evidence that the committee took in session 1; however, there is a specific issue about the technology that is being rolled out. We should deal with that now, rather than have a huge inquiry, reopening the entire telecommunications issue.

Carolyn Leckie: Which committee should deal with that?

Mr Ruskell: I do not know—perhaps the Communities Committee.

Carolyn Leckie: Mark Ruskell has addressed the issue of the jury being out on this technology. The truth is that the technology has not been around long enough for anybody to say one thing or another about it conclusively. We should all avoid pronouncing the safety of anything, which is why I support the application of the precautionary principle in relation to this. I am horrified by the number of planning applications that have been granted. If it is agreed that we refer the petition to the Communities Committee—the Health Committee may be the second committee, but that would be up to the committee to decide—I would be happy with that.

The Convener: I suggest that we agree with Jackie Baillie's suggestion that the lead committee should be the Communities Committee and that it should refer the petition to both the Environment and Rural Development Committee and the Health Committee for their input. I agree that there is no point in our going back to the petitioner, as they are quite clear about their concerns. It is for a committee of the Parliament to pick up those concerns and reflect on the answers that are received from the Executive. I do not think that it is necessary for us to delay matters by referring the issue back to the petitioners. Are members happy with that?

Members indicated agreement.

Dungavel (Detention of Children) (PE671)

The Convener: The next petition is PE671 on the education of children at Dungavel detention centre. The petitioners call on the Scottish Parliament to oppose the detention of children at

Dungavel detention centre and to ensure that the Scottish Executive honours its statutory commitment to provide mainstream education for all children in Scotland.

At its meeting on 12 November 2003, the committee agreed to write to the Home Office, which stated in its reply:

"We take the view that the provision of education to children detained with their families at Dungavel under the Immigration Act 1971 is, in essence, a reserved matter."

The Home Office also stated:

"Although the education authority provides advice and assistance, it is not the service provider and does not fund the educational provision."

The letter continues:

"We very much welcomed the publication of both reports and, in particular, HMIP's conclusion that Dungavel is a place of safety where detainees receive a good standard of care in a positive and respectful environment. In relation to educational provision for children at Dungavel, we were happy to accept all three recommendations made by HMIE."

Do members have any comments?

Carolyn Leckie: I am sure that you would expect me to comment. I draw attention to the letter from Beverley Hughes at the Home Office. Essentially, the contradictions have not been addressed. There is a political question, and this is clearly a political hot potato. It is a political decision whether people are happy to discuss it, either in the Parliament or in committee, and I feel strongly that we must discuss it. There is possibly a legal basis for that. On the one hand, the Home Office and the Executive say that the issue is reserved and is not a matter for the Scottish Parliament, but on the other, Beverley Hughes's letter says:

"Within this context, the local education authority may retain certain statutory functions in relation to ensuring that the educational provision is satisfactory for the children concerned."

The Home Office acknowledges in that sentence that the local authority has some authority in relation to certain aspects of the education of children who are detained at Dungavel.

Beverley Hughes's letter also says, in relation to the recommendations that HMIE made:

"We will be taking these recommendations forward with Premier Detention Services in consultation with the local education authority and HMIE."

The local education authority has an input into the education of children who are detained at Dungavel in relation to the supervision of standards—as Beverley Hughes's letter acknowledges—and in relation to assistance with enhanced provision for certain children. Given that local authorities must be democratically

accountable for their actions and that the education authority is clearly within the locus of the Scottish Parliament, how can that democratic accountability be exercised? How do the people who vote for the local council hold it accountable for its role in the provision of education to children in Dungavel? How can the Parliament hold the Executive accountable for its role? Clearly, the Executive is involved in discussion and dialogue and resources are being applied to the matter.

There are further questions to be examined and we should make those points to the Executive and the Home Office. We have a locus in relation to the children who are detained at Dungavel. We should call for the closure of the centre, because it is inappropriate, and we should exercise our democratic accountability in relation to the provision of education to those children.

The Convener: I agree with Carolyn Leckie that this is a political issue. For that reason, it is even more important that it should not be a matter for the Public Petitions Committee. It was our responsibility to consider the facts of the matter and the committee tried to establish those facts by seeking independent legal advice. On the basis of the advice that we received, we wrote to the Home Office at Westminster and we have now received a response, which states that the matter is reserved.

I am not trying to close down the debate on the issue—it is obvious that the Parliament can debate the matter and has debated it. I just do not think that Carolyn Leckie's suggestions reflect what the petition asked us to do. The committee has established where the locus is in the matter. Members can debate the issue and make points about what they would like the Scottish Parliament to do, but that is not a matter for the Public Petitions Committee and I really think that there is nothing else that we can do with the petition on the basis of the legal advice that we have been given and the response from the Home Office. I would welcome other members' comments.

Jackie Baillie: I entirely agree with the convener. We have been told by the Parliament's authorities, the Executive and the Home Office that the matter is reserved. That does not diminish some of the substantive issues that have been raised, but we cannot proceed any further with the petition.

The Convener: Carolyn, let me read the exact terms of the legal advice—

Carolyn Leckie: I have read the legal advice, but I stress that Beverley Hughes's letter contradicts the legal advice. Her letter clearly says:

"the local education authority may retain certain statutory functions in relation to ensuring that the educational

provision is satisfactory for the children concerned.”

One of the petition's demands is to call on the Parliament to ensure that

“the Scottish Executive meets its commitments under the 2000 Standards in Scotland's Schools Act, to provide mainstream education for all children in Scotland”.

The Executive and local authorities are under a legal obligation in relation to the provision of education at Dungavel, which Beverley Hughes acknowledges in her letter. The issues should therefore be further examined by another committee of the Parliament and I propose that we refer the petition to the Education Committee.

Helen Eadie: I agree with the convener and Jackie Baillie. It is all very well for each of us to quote parts of Beverley Hughes's letter; I quote a part that I think is relevant:

“Although the education authority provides advice and assistance, it is not the service provider and does not fund the educational provision. The service provider is our contractor at Dungavel, Premier Detention Services Ltd, who are funded through their contract with the Immigration and Nationality Directorate (IND).”

The letter makes it very clear that the provider is accountable, not to the local education authority, but to the immigration and nationality directorate.

The Convener: That is a valid point. I will back it up by pointing out that the conclusion to the advice that we received states:

“the education authority may have some statutory functions in relation to the education of such children but this is entirely a matter between the education authority and the Home Office”.

We sought an answer and that is the answer that we received. Carolyn Leckie is more than entitled to take up the matter elsewhere—I am not saying that she should not discuss the issue—but the committee must bear in mind its functions. We sought information from the legal adviser and the Home Office, which we now have. I recommend that we do nothing further with the petition.

Carolyn Leckie: I want to vote on the issue.

The Convener: We need a recommendation.

Jackie Baillie: I suggest that we close the petition.

Carolyn Leckie: I propose that the petition be referred to the Education Committee.

The Convener: Do you want to vote on whether we should refer the petition to the Education Committee?

Carolyn Leckie: Yes.

Ms White: Can I say something, convener, as I put my hand up to speak directly after Carolyn Leckie put up hers?

The Convener: Yes.

13:00

Ms White: I was going to say that there appears to be a stalemate. The Scottish Executive and the Home Office say that the issue is reserved, but given the legal advice that we received previously and the various letters, it is not clear—at least to me and some others—whether the issue is reserved. I understand the issue about the Public Petitions Committee's powers and about what is reserved and devolved. Obviously, I do not like the fact that such issues are reserved. I back Carolyn Leckie's proposal that we send the petition to the Education Committee. I do not think that we can simply leave the petition.

I take on board what you say, convener, about the committee's powers, but the issue is too important to leave the petition. We must push the petition up to the Education Committee, given that the education of kids is involved. I point out to Helen Eadie that Beverley Hughes's letter does not say that the education of kids is a reserved matter; it states that the services provided by the private security company, Premier Detention Services, are paid for by the Home Office, not the education authority. It would have been good to get reports from South Lanarkshire Council about how it is dealing with the issue.

The Convener: I take your point, Sandra.

The question is, that Carolyn Leckie's proposal that PE671 should go to the Education Committee be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Leckie, Carolyn (Central Scotland) (SSP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

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

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

That proposal is not agreed to.

Do we have a proposal that we close the petition?

Jackie Baillie: I suggest that we close the petition.

Helen Eadie: I second that.

The Convener: The question is, that we close consideration of PE671. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

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

AGAINST

Leckie, Carolyn (Central Scotland) (SSP)
White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

It is agreed that we close consideration of PE671.

Containerisation of Waste (PE661)

The Convener: The final current petition is PE661, on the containerisation of waste. The petition calls on the Scottish Parliament to take the necessary steps to ensure effective and detailed consultation by, and public accountability of, local authorities in implementing containerisation-of-waste programmes.

At its meeting on 12 November 2003, the committee agreed to seek the views of the City of Edinburgh Council, which has now provided details of the consultation exercises that it carried out on the containerisation of waste. The council also states that, in correspondence with the council, the petitioner did not say that he felt that there was a lack of consultation on the proposals. Do members have any comments?

Mike Watson: Given that the City of Edinburgh Council's thorough response answers the points raised in the petition, we do not need to take any further action.

The Convener: Is it agreed to take no further action on the petition?

Members *indicated agreement.*

The Convener: As agreed earlier, we will now discuss the committee's work programme in private.

13:03

Meeting continued in private until 13:16.

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