

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 12 May 2004  
*(Morning)*

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

Wednesday 12 May 2004

Col.

<b>INTERESTS</b> .....	761
<b>NEW PETITIONS</b> .....	762
Health Service Provision (North Clyde) (PE735) .....	762
Houses in Multiple Occupation (PE736) .....	771
Civil Partnerships (Solemnisation) (PE737) .....	779
Housing (Scotland) Act 2001 (PE721) .....	789
Green-belt Sites (Scottish Executive Policy) (PE724) .....	791
TETRA Communications System (Health Aspects) (PE728) .....	793
Autism Treatments (PE729) .....	794
<b>CURRENT PETITIONS</b> .....	801
Institutional Child Abuse (PE535) .....	801
Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (PE601) .....	803
Local Archives (PE628) .....	805
Forestry Commission (Consultation Guidance) (PE691) .....	807
Traffic Commissioners (PE692) .....	809
Disabled People (Local Transport) (PE695) .....	810
Census Forms (Legal Status) (PE697) .....	811
Minority Sports (Funding) (PE699) .....	811

---

## PUBLIC PETITIONS COMMITTEE

### 8<sup>th</sup> 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)

Campbell Martin (West of Scotland) (SNP)

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

Mike Watson (Glasgow Cathcart) (Lab)

#### 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 :

Susan Agnew (Marchmont and Sciennes Community Council)

David Bruce

Vivien Dance

Stephen Harte (Holy Trinity Metropolitan Community Church)

Margaret Mitchell (Central Scotland) (Con)

David Morrell

Jeremy Purvis (Tw eeddale, Ettrick and Lauderdale) (LD)

David Stay (Marchmont Action Group Promoting Initiatives for the Environment)

Rosemary Street (Holy Trinity Metropolitan Community Church)

#### CLERK TO THE COMMITTEE

Jim Johnston

#### ASSISTANT CLERK

Joanne Clinton

#### LOCATION

The Hub



## Scottish Parliament

### Public Petitions Committee

*Wednesday 12 May 2004*

*(Morning)*

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

### Interests

**The Convener (Michael McMahon):** Good morning everyone and welcome to the eighth meeting of the Public Petitions Committee this year. We have received apologies from Mike Watson, and we have been told that Carolyn Leckie will be arriving late. Susan Deacon is in attendance as a substitute for Mike Watson. I ask her to declare any relevant interests.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I have no registrable interests to declare.

## New Petitions

### Health Service Provision (North Clyde) (PE735)

**The Convener:** The first new petition is PE735, from Vivien Dance, which relates to the national health service. The petition calls on the Parliament to urge the Executive to require NHS Argyll and Clyde and NHS Greater Glasgow to make a special agreement on transferring responsibility for the design and provision of health services in the north Clyde area and, where appropriate, to amend existing legislation so that the boundaries of the two health boards are adjusted in order to transfer authority for the north Clyde area from NHS Argyll and Clyde to NHS Greater Glasgow.

Vivien Dance is present to give evidence in support of her petition. She is accompanied by David Bruce and David Morrell. I welcome them to the committee. You have three minutes in which to make a presentation, after which we will ask questions.

**Vivien Dance:** Good morning. I thank all of you for inviting us to the committee and for giving us the opportunity to address you today. We are joined—in the body of the kirk—by two of the other principal petitioners, Leila McKichan and Eileen Gorie. We are delighted to be here.

We are not, in any sense, an elected group. We have all carried responsibility for NHS governance, both locally and nationally. Based on our collective experience, we are confident that we have a thorough understanding of the issues that have resulted in the need for us to make a direct appeal to our elected Government. There is a serious crisis affecting NHS provision in our area and we believe that our petition gives you a unique opportunity to stop what is a rapidly deteriorating situation.

We look to you to give our fellow patients in the north Clyde area a bold and constructive solution to this crisis. That solution would be welcomed by the vast majority of the population. The theme of our short presentation is organising for reform, which is taken from the Scottish Executive's "Partnership for Care: Scotland's Health White Paper". I have asked Mr David Bruce to read our agreed statement.

**David Bruce:** Good morning. I will be clear about what exactly it is that we are asking for. We are looking at the needs of the 140,000 patients who live north of the Clyde estuary, in the catchment area of NHS Argyll and Clyde. They are a third of that health board's patients, so they account for about a third of its budget—about £200 million. We want responsibility for those patients and that budget to be transferred to the

Greater Glasgow NHS Board. Our reasoning for that is laid out clearly in chapter 7 of "Partnership for Care", which states:

"To support the development of integrated, decentralised healthcare services that meet the needs of individual patients and local communities, we need to remove unnecessary organisational and legal barriers."

We are here today to ask you to intervene to ensure that one particular barrier, which at present prevents patients from being treated in the geographical area of their choice, is removed.

Vivien Dance said that we face a crisis—that is not an exaggeration. Public concern is running increasingly high as patients and carers see their services being withdrawn from local hospitals and relocated across the river.

We understand fully that many district general hospitals—including Vale of Leven hospital and Lorn and Islands district general hospital—face change as a result of developments in modern medicine and population changes. Many services are being centralised to enable clinicians to give patients better-quality care, but we question why an historically illogical organisational boundary—which can be seen from any map—should determine where patients are treated. By demanding that patients go to Paisley, NHS Argyll and Clyde requires them not only to cross a major geographical barrier, but to go against the natural connection, the continuity of community and the well-established and reliable infrastructure of road and rail transport into Glasgow.

Why has Paisley emerged as the service provider for patients from north of the river when that is clearly against the resident population's wishes? It is because our area was made part of what was Argyll and Clyde Health Board's area. From the outset, the relationship was never happy, especially because of the problem of allocating equitable budgets and services across the divide. We ask that patient care and convenience take priority over an illogical boundary and that common sense prevails. The present situation does not conform to the stated aims of "Partnership for Care: Scotland's Health White Paper". We ask the committee to examine the root of the problem: the administrative structure.

The issue is much more than merely technical; it causes much unnecessary pain—often literally—to many patients and their carers. Members have the power to begin the process of rebuilding patient confidence by transferring responsibility for patients from north of the river and their budget to NHS Greater Glasgow. We ask the committee to endorse our petition and to find a way to ensure that its requests are met as a matter of urgency.

**The Convener:** Jackie Baillie has expressed an interest in the petition. Does she want to speak before the committee asks questions?

**Jackie Baillie (Dumbarton) (Lab):** As the local member for the area involved, I support the principles that underlie the petition and its desired outcome, which is to deliver quality health care as locally as possible and, when local services are not possible, to ensure that people have reasonable access to services. The petitioners have helpfully recognised some of the pressures, such as junior doctors' hours, the shortage of consultants and the increasing drive to specialisation, which all lead to a need for review and reform of future health service provision.

The key issue is reasonable access, as well as regional planning. People in my area must make a five-hour return journey by public transport to access a district general hospital in Paisley. I am sure that the petitioners will be able to expand on that. It would take 20 minutes by public transport for them to access a similar standard of facility in Glasgow. It is nonsense to expect people to conform to boundaries drawn on maps by bureaucrats to organise services when we should focus on the patient journey through the health system. Therefore, I am keen that we should recognise natural travel-to-work areas and the natural transport links that flow from north of the River Clyde into north Glasgow and south of the River Clyde into south Glasgow. There is no relationship between the two areas and that needs to be reflected.

Regional planning has exercised not only this committee but the Parliament as a whole. I do not understand why two major hospitals—the Southern general and the Royal Alexandra hospital in Paisley—are five minutes away from each other, when we could have little north of the River Clyde for a swathe of the population. If the health boards concerned had talked to each other much earlier, we would not be in the present situation.

My bottom line is that a reality check is needed. Health boards should focus not on service provision within their boundaries, but on patients' needs. Closer co-operation between NHS Argyll and Clyde and NHS Greater Glasgow is desirable. We want to achieve that in the short term and the long term.

**Linda Fabiani (Central Scotland) (SNP):** Jackie Baillie rightly used the phrase "reality check". At one time in my life I lived in Clydebank and at another time I lived in Argyll, so I am aware of how vast an area Argyll and Clyde NHS Board covers. Asking people from Clydebank or Helensburgh to go to hospital in Paisley, either as a patient or a visitor, is just ridiculous. I do not mean anything against Paisley, but there is even a

psychological issue involved. There is a natural divide between the north of the Clyde and the south of the Clyde; they are separate localities. I am amazed that people from Helensburgh have to go to Paisley to go to hospital. I did not know that that happened and it seems very silly. It is as though someone has sat down, looked at an area on a map and, without considering the realities, said, "Oh, that's achievable."

I am out of touch with the area; what kind of provision does Vale of Leven hospital offer, compared with the provision offered in Paisley? Is there a split in skills and services? Is that why people have to travel?

**Vivien Dance:** You have used an important word there—"split". Patients who are served by the Vale of Leven district general hospital now have to get a lot of services south of the river in Paisley. That is focusing people's minds on which services they can receive locally. There has been a downturn in such services, which is causing great concern. Many of you will have read press reports and responses from the public in the local area. Our petition has been necessary because we now face more and more journeys south of the river to access services. The problem is becoming even more acute—no pun intended.

You said that you are out of touch with the area and you mentioned people from Helensburgh having to travel across to the Royal Alexandra. As Jackie Baillie mentioned, that is a considerable journey. However, the area north of the river that we are talking about stretches out to cover the whole of Argyll. It can take two or three hours to get from some areas to the Vale, before you then have to cross the river to Paisley. Transport is at the heart of the issue for the whole area. We are questioning the accessibility of health services. We have debated access and quality and are putting forward the population's point of view that quality and access are fundamental to patient care. That is why we have submitted our petition.

**Linda Fabiani:** If someone in Lochgilphead needed a specific hospital service, where would they end up?

**Vivien Dance:** People in Lochgilphead can access many services locally because there is a community hospital there. We are fortunate that that will still be provided for in the next few years. In addition, local general practices may take community health care to the level above what is offered at the Lomond end, for example. If people require acute care they can come down to the Vale as day patients. However, they will have a difficulty now in that they may have to travel to Paisley.

The natural travel links for people from Lochgilphead are into Glasgow—even more so

than for the communities in Helensburgh and Lomond. There are natural transport links from Argyll into Glasgow but not into Paisley.

**John Scott (Ayr) (Con):** In essence, where are you now? I appreciate that people have lacked confidence in Argyll and Clyde NHS Board; Jackie Baillie has brought that to the attention of Parliament. How does Greater Glasgow NHS Board feel about you going to them? Has that board expressed views? I appreciate that you have expressed your views in public in forums such as this, but have you been in communication with the Glasgow board to find out its views on the commonsense solution that you seek?

10:15

**David Morrell:** That is a reasonable question, and the fair answer is that we have not consulted the health boards. We thought that we might be asked that, but the issue is about the constitutions of the health boards, namely, their boundaries, and we felt that it was necessary to take it a stage further. Each of the health boards will have a special interest in the petition one way or the other, and that is why we are bringing the matter to the committee.

It is obvious from immediate reactions and discussions that the health boards think along conventional lines—they think in terms of service agreements, for example—which do not take into account the radical differences between the areas. Vivien Dance and I have been on the boards on both sides: we have been on Lomond Healthcare NHS Trust and also Argyll and Clyde Health Board. It is the latter experience—in my case, for two years—that convinces us that, from Paisley, it is not possible to digest, understand and cater for the special needs of those north of the river. The situation is different, and that is the basis of our argument.

In answer to Linda Fabiani's first comment, I will add a little vividness to the reality check: it is 30 years since the Erskine bridge was built and there is still no scheduled bus service across it. That shows how separate the communities are. That might be a pity and perhaps it should not be that way, but that is the way it is. Three of the major Glasgow hospitals are within 10 minutes' walk of a station on the Helensburgh to Airdrie line. That is the contrast that produces the statistics to which Ms Baillie referred.

**John Scott:** Jackie Baillie has made the not unreasonable criticism that there has been a breakdown in regional planning. That issue has exercised the committee over almost the past year. Do you agree that your situation is another example of a complete breakdown in regional planning and that there is a huge need for people

to think outside the box, to use that rather nasty jargon phrase?

**David Morrell:** Yes, I agree, but we cannot expect those who are in the box to do the thinking. That is why we have not gone to the health boards themselves. The question is bigger: in our view, the focus and the root of the problem are the boundaries. Whatever arrangement can be made in the meantime to get round that would be appreciated, but the boundaries are the problem. Some of us are old enough to remember that there seemed to be an idea some decades ago—presumably in Edinburgh—that regions should be defined around river basins. We have got caught up in that and have somehow been left with a region that has a major river right through its middle. That is no longer tenable in the modern situation of increased, and obviously desirable and necessary, centralisation of services, which we understand. The problem is continually being aggravated to a serious point.

**Susan Deacon:** My questions build directly on John Scott's. You have all indicated that you have had considerable individual and collective experience in national health service governance over the years and so know your way around the system. That prompts me all the more to reinforce John Scott's question about what level of discussion and dialogue there has been, not only with the two NHS boards concerned, but with the Scottish Executive and other bodies with an interest. It is always of interest to the Parliament to know what local attempts to make progress and resolve issues have been made before we consider the issues, so will you elaborate on what you have already told us on that point?

**Vivien Dance:** We have followed with interest the debates on the clinical strategy that Argyll and Clyde NHS Board is currently developing. We have been kept informed of the discussions that underpin that clinical strategy, and the timing of the petition is designed to ensure that it has an impact on decisions taken on the clinical strategy. The strategy will not be finalised until June but, as far as we are aware, the transfer of population base and budget to Greater Glasgow NHS Board will not be an option—I say that knowing that somebody will now write it in to ensure that it is an option.

The white paper seeks to undermine the command and control mentality and remove it from health services, particularly in relationships between managers and the bureaucrats, but the decisions that are currently being taken reinforce the attitude of, "We will refer to Glasgow if patients insist and if we have to." A complete transfer of budget and population to the control and responsibility of Greater Glasgow NHS Board has never been proposed and has not come out of

discussions on clinical strategy, management, moving forward or reinforcing the terms and conditions of the white paper.

The white paper is clear. It drives towards regional planning and reminds health boards of the need to work together and co-operate. The population north of the River Clyde has not seen any tangible examples of that. There are still patients who wish to be cared for and receive their quality of care in Glasgow being directed across to Paisley. Patient choice is being negated.

**Susan Deacon:** I appreciate the wider points of substance that you make, but I would like clarification on the specific points that I asked about. Extensive discussion and consultation have taken place, and continue to take place, at local and national level on the issues that you have mentioned. Have you had a dialogue with those who are involved in such discussions and consultation to attempt to influence the outcome of the various processes?

**David Bruce:** The question is: to whom can we talk? We all have experience within the system and talk to people all the time about such issues, but there is no place to go to propose the concept that we are discussing, except to the Parliament. Such matters can only really be addressed to the Parliament because all the other people to whom we might talk have a vested interest and a position to defend. We can go to Greater Glasgow NHS Board and say, "Look, we have this great idea. We want to come and be part of your scene." Greater Glasgow NHS Board will say, "That sounds like a good idea, but hang on a minute. What will that do for our relationship with Argyll and Clyde NHS Board?" Equally, we could go to Argyll and Clyde NHS Board and say, "We have this great idea. We want a third of your budget to be taken away and given to Greater Glasgow NHS Board," but what would it say to that? We are in a fix. The great blessing is that we can come and talk to MSPs, which is wonderful. However, our central problem is to whom we can talk.

**Susan Deacon:** Thank you for your answer, which I take as a no. You have given reasons for that answer.

I would like you to comment on a fundamental point, which Jackie Baillie raised. She alluded to regional planning. Given that there are many examples throughout the health service in Scotland of services being delivered sensibly across boundaries, why are transfers of budgets and changes to boundaries now required to get that to happen in your part of the country, when it happens through co-operation elsewhere? I want to address precisely the geographical issues that you have clearly set out today.



**Vivien Dance:** Historically, we have all suffered because health boards do not seem to be able to communicate at that level without direction from the Parliament and ministers. When that direction comes, I think that it will give greater clarity to what is happening to patients north of the river. We express on behalf of the population the dissatisfaction with the status quo and the fact that, historically, things have simply never worked. We have all been part of a system in which governance has been an issue and we have sat in many meetings in which we have discussed the funding deficit in respect of Argyll and Clyde NHS Board and Greater Glasgow NHS Board. I do not understand how good patient experience and good quality regional planning can be taken forward on the basis of such a premise, or how, without direction from the Parliament, managers will be made to deliver what is in the white paper.

**The Convener:** I will take Linda Fabiani and Jackie Baillie, then try to get some direction on what to do with the petition.

**Linda Fabiani:** It is obvious that Jackie Baillie has been working on the issue. I notice that, in an answer to her, Malcolm Chisholm said that the boards would write with detailed responses to the questions that she had asked. Have there been any responses? Could the kind of voluntary cross-border arrangements that Susan Deacon alluded to happen elsewhere? I have asked those questions of Jackie, but perhaps I should not have.

**Jackie Baillie:** In an attempt to be helpful I will address some of the issues that have been raised, including Linda Fabiani's. It is fair to say that the subject of the petition is the single issue that has dominated debate and discussion not just in the local community, but at GP surgeries and among consultants. It is the talk of the steamie, because people care so much about what is happening. It is one thing to explain to people some of the national changes that are happening, why it is right that quality of care should be paramount and why we cannot provide things in the way in which they have always been provided—rightly so, because medicine advances and we are living longer. However, no matter whom one talks to, they do not understand the issue of reasonable access.

The issue has been raised until we are blue in the face at board level, locally in the community, at public meetings and with the Executive. We have to be clear that the petition has not come out of nowhere. The Executive is well aware of the issues and the health boards are well aware of them. We did not need to have a specific dialogue with them about the petition for them to realise what is going on, because we have had an on-going dialogue. There has been a failure of

regional planning, simply because there has not been the kind of co-operation that has been experienced elsewhere. Regrettably, that was down to some well documented management failures which, thankfully, have now been addressed. Nevertheless, that legacy is there. The difficulty and the lack of co-operation are witnessed on a daily basis.

I do not necessarily want all the boundaries to change, because that implies a legislative process that will not achieve the outcome immediately, but unless we put that suggestion on the table, the kind of co-operation that other areas enjoy will not happen. At the back of the minds of politicians and consultants across the board is the issue of the health boards being too small. We need to consider making health boards bigger. The petition fits firmly into that argument.

I received a response from the chief executive of NHS Argyll and Clyde, which described graphically the process by which officials from NHS Argyll and Clyde participate in the NHS modernisation board in Glasgow and vice versa. Unfortunately, the reality on the ground is that clinicians are not talking to each other, and unless they talk to each other about the shape of services and what is possible, we will get what fits within existing boundaries and budgets. We are asking people to think out of the box and to focus not on boundaries and budgets but on patients, who after all are what the NHS is all about.

**The Convener:** Whom do you suggest we write to to get them to think outside the box?

**John Scott:** I suggest that we write to the Scottish Executive and NHS Scotland, seeking their comments on the petition. We should ask not only about PE735 but about the other petitions that we have received that have illustrated a lack of regional planning. Jackie Baillie says that other areas have co-operated and that there have been better results, but I argue that other areas could be better served even if there has been co-operation. The Executive needs to knock heads together. We all understand the impact of the working time directive and the lack of consultants and junior doctors, but we cannot escape the fact that satellite areas around Glasgow have just as much right to health care provision as does Glasgow itself.

We need to get sorted out not only the hospitals in Glasgow—which have been the subject of much debate in this committee—but the satellites. That can be done only from a regional planning perspective, which does not appear to be being applied at present. Will the Executive address that issue?

**The Convener:** We must ask that.

10:30

**Linda Fabiani:** In general, I agree with everything that John Scott has said, but we cannot let the particulars of PE735 get lost in the wider issue. We must deal with the specifics of the petition, which seem to indicate an obvious example of good intentions going wrong. We can ask the Executive and the health boards to consider the wider issue, but we must remember where the petition came from and what it is about and not allow that to get lost. We must make it plain to the Executive that, as well as wanting it to address the wider issues, we require answers quickly to our questions on the petition. As Jackie Baillie said, the issue will not come out of the blue for the Executive, so we should put a time limit on getting its response to our request.

**John Scott:** We should also write to the two health boards involved.

**Linda Fabiani:** They can just copy the letter that they sent to Jackie Baillie and send it to us.

**John Scott:** Whatever.

**The Convener:** We would normally expect a response within six weeks and we can stipulate that we expect that timescale to apply in this case. Are members happy for us to write to the Executive, NHS Scotland and the two health boards and to get them to respond as quickly as possible?

**Members indicated agreement.**

**The Convener:** I thank the petitioners for coming to the meeting and bringing the issue to our attention.

### **Houses in Multiple Occupation (PE736)**

**The Convener:** Our next petition is PE736, from David Stay, on behalf of the Marchmont Action Group Promoting Initiatives for the Environment and Marchmont and Sciennes—I hope that I pronounced that correctly—community council. The petition calls on the Parliament to urge the Executive to make the necessary legislative changes to ensure that the impact on localities is taken into account when licenses are granted for all houses of multiple occupation. Before the petition was formally lodged, it was hosted on the e-petitions website, where it gathered 12 electronic signatures from 17 February 2004 to 27 March 2004. David Stay will give evidence in support of the petition. He is accompanied by Susan Agnew. I welcome you to the committee. You have three minutes to make a statement, after which we will ask questions and develop the issues with you.

**David Stay (Marchmont Action Group Promoting Initiatives for the Environment):** Susan Agnew and I are here today on behalf of a

community in crisis. I trust that members have had the opportunity to read the supporting papers that we submitted. Members will see that we represent residents whose ability to stay in their own homes is under threat. Every year, the membership of our group alone suffers loss because members who can take no more move out of the area. Fortunately for our continuing existence, our limited publicity efforts have produced a crop of new members, some of whom are desperate for help and advice.

The City of Edinburgh Council and the police have made big strides in dealing with major incidents of antisocial behaviour, although many residents are still unaware of the avenues of help that are available in such situations. However, there has been little impact on landlords who are absentees, indifferent or simply dishonest. Even the new Tenements (Scotland) Bill will not compel careless or rogue landlords to co-operate. The bill will merely provide a framework within which owners can take civil action against miscreants.

As long as landlords can buy up tenement properties for rent simply as an investment, with no restrictions on the number of HMO properties in an area, conditions for permanent residents will continue to deteriorate, creating increasing incentives to move elsewhere. However, why should we move? Instead, we appeal to the Scottish Parliament to act.

Susan Agnew will speak on behalf of the community council.

**Susan Agnew (Marchmont and Sciennes Community Council):** On behalf of Marchmont and Sciennes community council, I ask the Parliament to introduce legislation to restrict the percentage of houses in multiple occupation in an area, street or individual tenement. Scottish ministers have previously passed legislation to regulate HMOs. In 1991, HMOs were added as a category to the Civic Government (Scotland) Act 1982, but it was left to local authorities to decide whether to use the new power. In 2000, Scottish ministers made the licensing of HMOs mandatory. At the same time, the number of occupants that constituted an HMO was reduced from five to three.

Paragraph 5 of schedule 1 to the Civic Government (Scotland) Act 1982 contains provisions that could be applied to prospective HMOs to restrict the number of such properties. However, faced with the apparent reluctance of the City of Edinburgh Council to use those provisions, we ask the Scottish Parliament to legislate to impose mandatory restrictions on the escalating number of HMOs.

**John Scott:** Why is the City of Edinburgh Council not prepared to take effective action in the

way that Glasgow City Council has done, albeit that Glasgow City Council has had to justify its action in the courts?

**Susan Agnew:** Interestingly, I attended a meeting of the licensing committee in Edinburgh last week. I admit that most of the meeting was about liquor licensing, but HMOs also came up. The licensing committee's first reaction was to pass the buck to the planning department. Personally, I think that the planning department is pretty slow already, and asking the planning department to deal with HMOs would just block up the system completely.

The licensing committee could apply the provisions in the Civic Government (Scotland) Act 1982 that I mentioned. At the meeting, we went on about that a bit and asked the committee why it did not apply those provisions. At one point, Councillor Attridge said that the council wants students in Edinburgh and does not want them to go to Glasgow. At the end of that meeting, it was said that the council was waiting for legislation to tell it what provisions to apply. We had the feeling that the council was avoiding doing something until it is required to. Goodness only knows why that is, but perhaps the council believes that the economy of Edinburgh relies on students. The council is very much passing the buck.

**John Scott:** Is Councillor Attridge the member for the Marchmont ward?

**Susan Agnew:** No, he is a member of the licensing board.

**John Scott:** Is the councillor for Marchmont not prepared to help in any way?

**David Stay:** The councillor for Marchmont is Councillor MacLaren, who is convener of the MAGPIE group. She has given us her full support and co-operation from day one. The group was formed after I wrote to her to ask that something be done about the state of the streets, which were manky. She put a notice in her local bulletin, a meeting was held in the City Chambers and we were launched in short order. She has been very supportive and co-operative, but she is not in the ruling party. Unfortunately, things tend to fall along party lines in Edinburgh. I am sorry to say that, but it is true.

**John Scott:** Before I finish, I should declare an interest as someone who, as a student, stayed on Warrender Park Road in Marchmont 30 years ago. I was happy there, too.

**Linda Fabiani:** It is perhaps just as well that HMO licences were not required then, as John Scott might have been tossed out.

**David Stay:** They had landladies in those days.

**Linda Fabiani:** Let me start with a comment. I sat on the Social Justice Committee when it took evidence on the licensing of houses in multiple occupation. As I remember, a steady stream of landlords' representatives told us that we would kick rented housing out of Edinburgh. However, it seems that the opposite has happened.

What percentage of the houses in your area are HMOs?

**David Stay:** I got a fright yesterday, when I had the spare time to sit down and examine the statistics—which I seldom have time to do—in preparation for today. I was staggered to discover that, in several major streets in Marchmont, just under 50 per cent of the houses are HMOs. In some cases, such as in one smaller street, the proportion is considerably more than 50 per cent. That is the kind of figure that we are talking about. The overall figure that I have for the area is 34 per cent, based on the council figures. However, I have done my own homework and read through voters rolls, and I think that I know of more HMOs—unlicensed ones—than the council does. Based on that information, I would say that the figure is more than 34 per cent. My percentages—all of which I have with me—are staggering, when we realise the numbers that there are. I would say that, in reality, we are almost up to 50 per cent in the area.

**Linda Fabiani:** I take it that the vast majority of HMOs are student accommodation.

**David Stay:** Yes. We try not to be pejorative, because we are quite genuinely not against students. We have good relations with students, but there are just too many. We are being overloaded. That is the problem.

**John Scott:** How significant is the problem of trying to get absentee landlords to co-operate when seeking to get repairs sanctioned or actioned? I am aware that that is a problem. Would you like to expand on that point?

**David Stay:** I am reluctant to say too much, because I have to deal with such a landlord. The typical response is zero. Letters are just not replied to. Fairly minor repairs have had to be done to our building twice in the past four years, and on each occasion it has been like getting blood out of a stone. He is an absentee, but he lives in the city and I happen to have his address. Finally, I presented myself at his address. He immediately named the problem and said, "Oh, do you want a cheque?" He had never replied to my letters, but he paid up; I was amazed that he did. I know that he owns several properties in the area, and every one of the self-appointed factors—namely an owner-occupier from the stair—has had difficulties getting money out of him.

We know where that man is and we can go to his door, but there are other absentee landlords who are very difficult to find. But for the fact that I have been living there for a long time, I would be obliged to use the site notices that are put up. However, site notices are inadequate. In many instances, the address that is given for the landlord is in London. There is no name and no signature and the notice does not name a day-to-day agent who is responsible for the building. One of the things that should happen after the licence has been granted is neighbour notification. The law requires that every conjoining owner be notified of the fact that a licence has been granted, the number of residents for which it has been granted and the name, address and 24-hour telephone number of the local agent. I have to tell you that I have only ever seen one neighbour notification. The law is ignored. Residents often do not see a site notice, because one is not displayed, so they do not know that a licence has been granted. How can they object when they do not receive a neighbour notification? The system is really shocking.

**Susan Deacon:** What I have to say is more of a comment than a question, so perhaps I should wait until the committee discusses what action to take on the petition.

**The Convener:** We can take ideas, if you want to suggest something. The petitioners have been quite clear in presenting the issue and making the points that they wanted to make. I think that we can judge what to do with the petition once we have heard some comments.

**Susan Deacon:** I have listened with interest to what the petitioners have told us. I represent a constituency that covers part of the Edinburgh area, and what they have said has certainly got me thinking. I very much recognise the extent to which properties in Edinburgh are now being bought as investment opportunities simply because of the shifts in the market. I note that that is having all sorts of knock-on effects in different parts of the city. The fact that the situation is quite specific to the Edinburgh area should probably be factored into any questions that we ask when we advance our consideration of the petition.

Much of the information in the petition was fairly new to me. I am particularly interested in exploring the difference in approach to such issues between Edinburgh and Glasgow. It is always interesting to explore such differences without being partisan about which is better or worse; it is necessary to recognise that different conditions apply and that different situations need to be addressed.

The third point that I want to factor into our thinking is whether we should ask the Executive or relevant local authorities wider questions about—to use the petitioners' word—overload, which is a

wider planning issue. The petitioners have brought to our attention the fact that certain types of HMO are a concern in Marchmont, but in parts of my constituency the number of hostel and bed-and-breakfast facilities is an issue.

I make those observations on the basis that I think that it would be useful if they could be woven into our consideration of the petition appropriately and in a relevant way.

10:45

**Carolyn Leckie (Central Scotland) (SSP):** Following on from Susan Deacon's points, there are wider issues at stake about the composition of housing and the mix of social housing and student accommodation. It strikes me that the problem would not have arisen if there had not been such a decrease in student accommodation. I am interested in finding out how much accommodation that was designated as student accommodation has been lost in Edinburgh. If it had not been for the loss of that accommodation, the opportunities would not exist for so many landlords to buy it up and rent it as HMOs.

Bigger issues are involved. I think that the lack of social housing and student accommodation is a major concern. It strikes me that the licensing strategy is a bit too late, because the houses are being bought up by one landlord instead of by different individuals who want to live in them or—in the case of social housing—by the council, for example. I would like to get some background information about the mix of social housing and student accommodation in the area and to find out how much student accommodation has been lost. Unless the loss of such accommodation is tackled, the opportunities for the landlords will still exist.

**The Convener:** We have had the suggestion that we write to the Scottish Executive and the two local authorities. I do not think that it would be too difficult to ask specific questions such as those that Carolyn Leckie has suggested. If we can get some statistics to provide an analysis of the change and of how things stand at the moment, it would help us to understand the situation.

**Linda Fabiani:** I have a point of information. I think that we should add the student accommodation services in Edinburgh on to the list of the people to whom we write. We should not ask them about what Carolyn Leckie was saying, as that is a separate issue; I am interested in what the student accommodation services think that the effect on students in Edinburgh would be if the licensing system were operated in the same way as it is in Glasgow.

**The Convener:** Are you talking about the services that are provided by the University of Edinburgh?

**Linda Fabiani:** Yes. It will be possible to find the references in the *Official Reports* of the Social Justice Committee.

**John Scott:** Perhaps we should also write to the minister to ask him whether he is considering whether any changes need to be made to the guidance or to the relevant legislation. He said that he would do that when reviewing the matter.

**The Convener:** I am sure that she will consider whether any such changes need to be made.

**John Scott:** I beg your pardon. I was looking at the news release from the Executive, which is among our papers. It says that Hugh Henry, the Deputy Minister for Social Justice, had said that he would respond, so I think that we should write to him as well.

We should seek the views of the Convention of Scottish Local Authorities in addition to those of the people who have already been mentioned because, as Carolyn Leckie and Susan Deacon have said, we are talking about a wider issue. The problem in Marchmont is about HMOs and a group of people colonising—for want of a better word—the area, but there will be other, similar groups elsewhere in Scotland that are doing the same thing, to the exclusion of those who regard themselves as the indigenous population. That might be an issue on which COSLA wants to comment.

**Jackie Baillie:** We need to be clear that the licensing regime that has been put in place for HMOs is about safety and standards; it is not—and never has been—about preventing people from buying up property and converting it into HMOs. Linda Fabiani is quite right—when the licensing of HMOs was being discussed, all the talk was that we could not put the regime in place, because it would prevent the creation of HMOs. Thankfully, the Social Justice Committee saw the sense of having the regime. Having said all that, it is legitimate to ask, “If one area can deal with issues of density, why can’t another?” Therefore I support the view that we should write to COSLA about that.

There is the wider issue of how we use local housing strategies. Local authorities are responsible for producing local housing strategies and plans that are about balancing needs and demand in communities, creating a range of both affordable social housing and housing that is available for purchase. It might be useful to ask COSLA whether it is using local housing strategies to plan such a balance with reference to HMOs.

**The Convener:** Are members happy with that? Are there other suggestions?

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I am quite surprised that

the commercial activity that we are talking about is permitted without people having to follow the due process of planning or regulation. I understand from the petition that properties that are in the ownership of particular landlords can be converted into houses in multiple occupation without due notice being given to the local planning authority, which seems strange to me. Any other commercial activity would be subject to planning and neighbour notification, to which one of the petitioners’ complaints relates.

I see that the petitioners suggested that in particular areas, such as university areas, the occupancy rates should be more relaxed. You say that they should be 10 per cent in some areas and 5 per cent in others. What are the rates a percentage of?

**David Stay:** Those are the percentages that Glasgow City Council has applied, although I do not know whether the rate is applied to each street. The council has said that proportion of properties that are HMOs will be 10 per cent in the university area and 5 per cent elsewhere. I do not know how that has been achieved.

**John Farquhar Munro:** Surely there could be anomalies in defining the boundary between where 10 per cent would apply and where 5 per cent would apply. Who determines what the university area encompasses?

**David Stay:** There is a map and the council has specified which streets are in the university area.

**John Farquhar Munro:** In your petition, you highlight the fact that the HMO regulations have been challenged in court and that the Court of Session has upheld the views of Glasgow City Council. However, the City of Edinburgh Council is not prepared to follow what Glasgow City Council has done, saying that it would be challenged in law, despite the fact that the Court of Session’s decision supports Glasgow City Council.

**David Stay:** It is a mystery to me why City of Edinburgh Council is able to plead that it would be challenged in law. As you said, there have been appeals against Glasgow City Council; it has lost some of those cases, but in most cases its decision has been upheld. The City of Edinburgh Council, with its much softer regime, has had a smaller number of appeals, and I think that it has won two cases and lost two cases.

The City of Edinburgh Council planning development control handbook says:

“Multiple occupation ... will only be acceptable where the Council is satisfied that: the intensity of use proposed is not excessive in relation to property size; there will be no loss of residential amenity in the neighbouring area ... adequate supervision is provided; and, the proposal will not result in an excessive concentration of such uses in any one locality.”

That is what applies to HMOs with six or more residents, which are the only ones that require planning permission for a change of use. We say that if that applies to HMOs with six residents, why should it not apply to HMOs with five, four and three residents?

**The Convener:** We have had a few suggestions about who we should write to on the petition. Are members happy that we take up the matter with the Executive and the local authorities in the way that has been recommended?

**Members indicated agreement.**

**The Convener:** Okay. We will await those responses.

### **Civil Partnerships (Solemnisation) (PE737)**

**The Convener:** Petition PE737, in the name of Stephen Harte, on behalf of the Holy Trinity Metropolitan Community Church, calls on the Parliament, before considering a Sewel motion in respect of the Civil Partnership Bill, to seek for the bill to be amended to provide for the possibility of solemnisation of a civil partnership in Scotland by a minister of religion in a way similar to that allowed for religious marriages under the Marriage (Scotland) Act 1977 or, failing that, the deletion of clause 89(2) of the bill so that registrars will be free to conduct civil partnership ceremonies in otherwise appropriate venues that have a religious connection. Stephen Harte is present to give evidence in support of the petition; he is accompanied by Rosemary Street. You have three minutes in which to make your presentation before we move on to questions.

**Stephen Harte (Holy Trinity Metropolitan Community Church):** I thank the convener and the committee for seeing us today. I also thank the clerk and his colleagues for fulfilling what must be the challenging task of dealing with a variety of enthusiastic petitioners who are trying to be heard.

My colleague Rosemary Street and I are, as the convener said, from the Metropolitan Community Church in Edinburgh. We believe that Christ's gospel is good news for all people. Since the denomination was founded 35 years ago, we have had a special affirming ministry within the lesbian, gay, bisexual and transgender communities. Unlike some churches, our ministry is open to all people, whatever their sexuality or gender identity. Rosemary Street is also an active member of Parents Enquiry Scotland, which the committee may know is an organisation that works with parents of LGBT children.

We appear before the committee today with some simple requests. In essence our petition asks that Parliament honour the place of religion in Scottish society, that the place of religion be

honoured for all people, even sexual and gender minorities, and that Parliament comply with its obligations under the European convention on human rights, as the Scotland Act 1998 asks it to do.

As the committee will know, Scots law currently allows mixed-sex couples to enter the civil status of marriage by way of a ceremony conducted by either a registrar or an authorised minister of religion. Although different religions have different views on marriage—each from their own theological perspectives—the civil status of marriage created in law by such a ceremony is governed solely by the Marriage (Scotland) Act 1977, irrespective of whether a registrar or a minister of religion conducts the ceremony. Our petition asks that the choice that is offered to mixed-sex couples be extended equally to same-sex couples and that the civil status of civil partnership be capable of creation by a minister of religion who wishes to do that.

If it is not altered, the Civil Partnership Bill will go down in history as one of the few pieces of legislation that actively discriminates against people of faith. As the committee will know, the ECHR, which Parliament and the devolved Scottish state must follow, guarantees the freedom of religion. That expressly includes the freedom to manifest one's religion. The ECHR also requires that convention rights should be open to all people without discrimination and in particular without discrimination on the basis of gender. We submit that the current version of the bill is incompatible with the ECHR.

We realise that it is true that not all churches will want to take part in civil partnerships. The committee will be well aware that even today some churches will not marry all mixed-sex couples who are perfectly legally entitled to be married. That is their choice; churches are free to decide those matters. We ask the Parliament to leave the decision to individual churches; they should be allowed to decide on the matter for themselves. We ask the Parliament not to dictate to Scottish churches the line that they should take. It should not do so any more than it should legislate on the concept of marriage that is to be adopted by any one denomination.

11:00

We have had support from clergy and laity across Scotland and across the church spectrum. We have also had support from the Lesbian and Gay Christian Movement, which is an ecumenical organisation that seeks to ensure the inclusion of LGBT people in all aspects of life.

We are given to understand that the bill was drafted in such a way because the Executive and

the Westminster Government are frightened of the churches, particularly as a result of the backlash from some small but well-funded elements of the church community to the section 2A debate. We think that that is a crying shame. We urge the Parliament not to push churches to the margins of Scottish life because of the hostile words of some Scottish church leaders. We ask the Parliament to embrace enthusiastically the role of faith communities in this area as in other areas.

Our biggest regret is that the bill as drafted appears to recognise implicitly the incorrect view, which is peddled by the Christian Institute and others, that it is not possible to be gay and Christian. We know that that is not true and we urge the Parliament to ensure that we do not end up with a bill that says that it is true.

**The Convener:** Thank you. Does any member have a question for the petitioners?

**Linda Fabiani:** I do not know whether what I have to say is a question. The matter seems clear: I think that I understand everything that you have said. It seems that the issue is one of basic unfairness and inequality. Could you lay out simply why the bill would not give churches the freedom to exercise their beliefs?

**Stephen Harte:** You are correct to say that the situation seems unfair. I have explained the matter to MSPs, MPs and ministers. Indeed, I had a meeting with my MP, one of whose many hats is that he is Secretary of State for Scotland. When I presented the issue to him in a surgery, he said that our proposal seemed to be clear and fair. That is the response that we get until we reach the civil servants in the bill team and the ministers who are responsible for the bill, after which everything goes funny and we are told that our proposal is not necessary. The bill will not allow a minister of religion to be the person who solemnises the civil partnership—the person who creates it on behalf of the state.

**Linda Fabiani:** Could you please explain solemnisation?

**Stephen Harte:** I am sorry; it is technical jargon.

**Linda Fabiani:** Never having been married, I have never been solemnised.

**Stephen Harte:** I have not been married either. The technical term “solemnisation” refers not only to a church blessing of a relationship, but to the church service that creates the legal relationship in exactly the same way as happens in the registry office ceremony. For many people of faith, solemnisation is an important manifestation of their religion; the ceremony is grounded in their faith. In the same way as faith is important to many people in Scottish society, it is important to many LGBT people. As the bill is drafted,

churches will be forced to send their same-sex couples down the road to a dingy registry office, whereas their mixed-sex couples can ground their relationship in their faith as part of the church community.

**Linda Fabiani:** That was simply put. Thank you.

**Helen Eadie (Dunfermline East) (Lab):** At the weekend, I was reading an issue of the Church of Scotland's “Life & Work” magazine. Next week, the General Assembly of the Church of Scotland will meet across the road from here. The new moderator is leading the church in an ecumenical direction. Given that various reports will go forward from the assembly, what is the ecumenical view across Scotland of the subject of your petition PE737? We like to pay regard not only to one church, but to all the churches and faiths of Scotland.

**Stephen Harte:** Unfortunately, we can speak only for ourselves. We have tried to seek out the views of others, as far as that was possible for a small organisation with small resources. All the Church of Scotland ministers, Methodist ministers and Unitarian ministers to whom we spoke and who confirmed that they would show their support of our petition have done so.

Our submission is that, whatever a person's faith and whatever view they take of civil partnerships, they should support our position, even if their church is theologically opposed to same-sex couples. Our position leaves the decision on the matter to individual churches. It honours the important place of churches and other faith communities in Scottish society.

**Carolyn Leckie:** I support your right to be able to solemnise a marriage. I am not religious and would not choose to go down that route, but I respect your rights and think that that route should be open to all. The petition is obviously aimed at the Scottish Parliament as we consider the Sewel motion on the bill. However, are you aware of the lobbying situation and the amount of support that there has been in England and Wales for the bill to be amended?

**Stephen Harte:** We are conducting this campaign in Scotland, but there are also moves in England and Wales. As members know, the Scottish Parliament is much more accessible than the Parliament at Westminster. The bill is currently before the House of Lords, but how can the House of Lords be lobbied? We have tried to do so, but there are no lords who are ours to contact. The bill is being considered by a committee and the Westminster bureaucracy is tough. The existence of the Public Petitions Committee means that people's voices can be heard in Scotland. Colleagues in England are impressed by our freedom and our contact with our elected

representatives and ministers. We do not always get what we want—no one does. However, lobbying in England is, unfortunately, hard.

The other issue with respect to England—and the reason why the Lesbian and Gay Christian Movement has been happy to support us and let us take the matter forward in Scotland—is that there is a different legal position. In England, people were happy to let registrars do things. I am not an expert on English marriage procedure, but I understand that a registrar is a more fluid concept in England and that church ministers can become registrars in order to do certain things. That is not the practice in Scotland, where registrars are usually employees of a local council and accountable to the general registrar and where ministers of religions are authorised celebrants under the Marriage (Scotland) Act 1977. Therefore, Scotland is in a unique position, as it often is. There is a Westminster bill for reasons that members probably know more about than I do, but I would be happier for the bill to be dealt with in Scotland. However, devolution is a complicated concept.

**Carolyn Leckie:** It is a pity that the committee's own lord is not here.

**Jackie Baillie:** I do not want to spoil the party and I entirely appreciate what you have said about the Parliament's openness. Nevertheless, we are dealing with a Sewel motion and, whether that is right or wrong, that is the context in which we are operating. I might agree with some of what you have said about how one can lobby the House of Lords—or, indeed, the House of Commons—but that is where there must be lobbying if the kind of change that I think you want can be created. There may well be a mechanism in Scotland that gives powers to amend a Sewel motion, but I would have thought that you should focus your tactical attention elsewhere.

**Stephen Harte:** You may know that the Equal Opportunities Committee did a lot of work on the issue before Christmas. I understand that it obtained an agreement from ministers that the bill team that would consider the Scottish parts of the bill would consist of civil servants accountable to Scottish ministers. There is a separate Scottish part of the bill and the civil servants dealing with that part are in Victoria Quay and are accountable to the Minister for Justice, which is why we are making our efforts in Scotland.

It should also be remembered that the Scottish Parliament is different from the Westminster Parliament. The Scottish Parliament is not free to decide whether to comply with the ECHR—it would be ultra vires to do that. Westminster can decide to depart from the ECHR if it wishes. It would be for people other than me and the Parliament's legal representatives to ask, "Can

Parliament pass a Sewel motion, the effect of which would be to deviate from the Parliament's obligations under the convention?" If so, when the Parliament wanted to do something that would be contrary to the convention, it would, through a Sewel motion, get Westminster to do it. That could be a recipe for an unscrupulous Administration—I am not suggesting that this Administration is unscrupulous—to circumvent the Parliament's clear obligations under the Scotland Act 1998 to comply with the ECHR. Therefore, before considering the Sewel motion, the Parliament should find out what representations it needs to make to Westminster so that the Parliament is not put in an awkward position by the motion that the Minister for Justice is asking it to consider.

**John Scott:** I have a point of clarification that builds on Jackie Baillie's question. If a Sewel motion were introduced for the Civil Partnership Bill, would it allow same-sex marriages to be solemnised? If so, would that solve your problem?

**Stephen Harte:** First, the Minister for Justice has already lodged the Sewel motion, which means that it is already before Parliament. Much though I would love to debate the term "same-sex marriages"—

**John Scott:** Define it as you wish.

**Stephen Harte:** As I say, I would love to have that debate at some point. Unfortunately, that is not what the Executive has put on the table.

As drafted, the bill allows only for a registrar to conduct these ceremonies. There is also concern that the Westminster Government appears to be pushing the notion that those will not even be ceremonies, but a kind of bureaucratic form-filling exercise. It would be very sad if that were the case. Indeed, it would rain on our parade—and our people like a parade.

As the petition points out, the bill replicates certain parts of the Scottish Parliament's Marriage (Scotland) Act 2002 allowing registrars to wander, if you like, and officiate at civil marriages elsewhere. However, our further objection to the bill is that it includes in primary legislation the provision set out in secondary legislation prohibiting people from having a civil ceremony in a church—which is bizarre in itself—and prohibiting a registrar from going to a church to carry out such a ceremony. Not only will our ministers be unable to conduct such ceremonies—which is what we want and what we feel is demanded by the ECHR—but we will not even be able to have a registrar present at the church. People could have their civil partnership ceremony on a golf course, in a balloon or anywhere else, but not in a church.

**Linda Fabiani:** I am horrified by what I have heard this morning, because it seems like a basic



denial of rights. It simply confirms the point behind the argument that the Civil Partnership Bill should not be dealt with through a Sewel motion. After all, so many aspects directly affect Scotland and the Scottish people. I guess that that argument will be raised when the matter comes up again.

I know that you have given evidence to the Equal Opportunities Committee. What was its response? Has it decided to lobby on behalf of the issues raised in the petition, as it should do?

**Stephen Harte:** We made a submission to the Equal Opportunities Committee's consultation and the Executive's consultation. However, as is often the case with Executive consultations, our response disappeared into a black hole. I am not saying that it was ignored, but one never knows what happens to such things after they are submitted.

On the other hand, the Equal Opportunities Committee noted our comments in its report "Civil Partnership Registration—Response to the Scottish Executive Consultation", which was published on 25 November 2003. Recommendation 9 says:

"The Committee recommends that the Scottish Executive use the Marriage (Scotland) Act 1977 and the Divorce (Scotland) Act 1976 as the basis for the procedures for civil partnership registration and dissolution in Scotland and adapt the specific rules as required to reflect the realities of same-sex relationships."

The logic of that recommendation is that, if we follow the Marriage (Scotland) Act 1977, we should offer the same choice of authorised celebrant or registrar to same-sex couples as is offered to mixed-sex couples.

**Linda Fabiani:** And that is a straight recommendation from the Equal Opportunities Committee to the Executive.

**Stephen Harte:** Yes. It is recommendation 9.

**Susan Deacon:** You have explained some important issues very well this morning. However, the matter leads us into a moral and legislative maze. We also need to remember that, for good or ill, the bill that you are talking about is being considered at Westminster.

As a result, I want to raise a bigger question with you as petitioners and in order to find out where the committee can go on this matter. Given where we have reached with the proposed legislation, can you tell us where some of the wider debates on the matter take place in Scotland? After all, this debate has other dimensions. I have taken quite an interest in the matter; indeed, I am interested in the gap in the various legal rights of mixed-sex cohabiting couples that has opened up because of the route that has been chosen.

As I have said, a whole host of moral and legislative issues still need to be addressed in Scotland. However, it is not immediately obvious how to do so given our current position. Do you want to comment on that? Do you think that the family law proposals in Scotland will be a vehicle, if not for legislative change, then for discussion of these issues?

11:15

**Stephen Harte:** You correctly refer to the legislative realities. As we sit here, the Justice 1 Committee is also considering the procedures relating to the matter. I regret that I am unable to attend that meeting. We believe that a great injustice is being done and that ECHR-guaranteed rights of people of faith in Scotland are being trampled on. That is the reality for us.

There is a remedy. If Parliament is not willing to give us that remedy by honouring convention-guaranteed rights in the legislation, our people will await an opportunity to go to court. In the case of *Macdonald v Advocate General for Scotland*, the Westminster MP for Edinburgh Pentlands decided personally to argue against the right not to suffer discrimination of lesbian and gay people.

In the same way, the power and financial might of the state would be used against any poor couple who decided to enforce their convention rights. Those people might also be opposed by the MP for Edinburgh Pentlands, as Advocate General. They might have to find money to fund legal representation, which is not easy. If they lost—and the case might go all the way up to the European Court of Human Rights in Strasbourg—the state would seek expenses against them. That is the reality. If the Scottish Parliament does not take seriously its obligations under the convention and decide what conversations it must have with Westminster to ensure that it does not abdicate its responsibilities, our people will have to dig deep into their pockets and risk their houses to guarantee their rights.

**The Convener:** As has been mentioned, the Minister for Justice, Cathy Jamieson, lodged a Sewel motion on the Civil Partnership Bill on 26 April. The Justice 1 Committee will consider the motion and take oral evidence on it. As far as I am aware, it is doing so this morning. I am not sure that the committee will not consider the issues that we have been discussing this morning. It would be appropriate for the points that Mr Harte has made, the questions that have been asked and the information that we have gathered to be presented to the Justice 1 Committee, to allow it to consider that evidence before the Sewel motion comes before Parliament. What do members think about the tight timescale to which we are working? I

believe that the Sewel motion may come before Parliament in June.

**Jackie Baillie:** I agree with your recommendation. The matter needs to be turned around quickly because, as the petitioner has indicated, the Justice 1 Committee is considering the bill now. It is crucial that we get the evidence that we have received to the committee, so that the committee can take it on board. The petitioners should not forget that, ultimately, they need to lobby Westminster. That is the point that I was trying to make to them.

**Stephen Harte:** I beg the committee's indulgence. I hoped that the issue of families would come up in the questions, but it did not. My colleague Rosemary Street, who is a member of our church, is also an active member of Parents Enquiry Scotland and would like briefly to share with the committee some information on the impact of the bill as drafted on Scottish families.

**The Convener:** I do not know whether we can spend much more time on questions, but if you want to say something that you think will add to the information that we refer to the Justice 1 Committee, I am more than happy for you to do so.

**Rosemary Street (Holy Trinity Metropolitan Community Church):** I will bring the debate to a personal level. I cannot emphasise enough what I feel about the unfairness of the wording in the bill. I have been a member of the Metropolitan Community Church for nine years and have met many lesbian and gay people of wonderful, true faith.

My son and daughter also attend the church. They are both in stable, loving relationships. They wish very much to follow my husband and me in affirming their relationships in a place of worship in front of God with a minister. My daughter has that choice, but if the bill is passed my son will not have that choice, and that upsets him, and us as a family, greatly. Because of his sexuality, he has been sidelined and not allowed to stand up in a place of worship. To me, that is grossly unfair.

**The Convener:** Are there any other comments before we bring this item to a conclusion? I do not want to keep the debate going. We are trying to decide what to do with the petition.

**Susan Deacon:** In the context of those final comments about families, I raised the issue of family law and made the point that there are plans for devolved legislation on family law, on which a consultation process is currently taking place. I repeat the point that the moral issues and the legislative debates that today's discussion has touched on are all germane to that process and to the legislation that will eventually be passed. There has been enormous focus on the Civil

Partnership Bill, but there are other ways and other places in which some of the issues can be raised. The current debate may or may not eventually lead to further legislative changes, but there are other vehicles for debate, discussion and potential statutory change here in Scotland. In a sense, I am disappointed that the petitioners did not address my question on that. I know that time is limited, but perhaps that is something that the committee could bear in mind.

**Linda Fabiani:** I agree with the recommendation that the petition should be sent to the Justice 1 Committee, but I also recommend that we write to the Minister for Justice asking her whether she has taken those issues on board in making her decision about what to put before Parliament. We should ask whether she has raised those issues with Westminster, in relation to the Sewel motion that will be lodged and in relation to the bill. If there are issues that are not being addressed in the Civil Partnership Bill, we need to know whether she has plans to cover those issues in further legislation that is now being considered.

**The Convener:** I have just one point to make on that, Linda. First of all, the timescale would not allow us to get a reply back from the minister or—

**Linda Fabiani:** We have two weeks. The minister's officials must know whether what I am asking about is being done.

**The Convener:** Given that the minister has already given us a response in relation to that, it would be for the Justice 1 Committee—

**Linda Fabiani:** Yes, but it does not answer the question.

**The Convener:** It would be for the Justice 1 Committee to take those questions to the minister once we have referred the petition to that committee. We have said previously in this committee that we either send a petition to the minister or we send it to another committee. We cannot delay the timescale to which the Justice 1 Committee is working; if we asked for a response from the minister, that would not meet the Justice 1 Committee's timescale. The Justice 1 Committee will have to take up the matter with the minister in relation to the Sewel motion. If we refer the petition to the Justice 1 Committee, we will effectively be doing what you are suggesting by demanding a response from the minister.

**Linda Fabiani:** If you are talking about the response from the minister and you mean the letter that is among our papers for this meeting, that is a news release that was put out by the Scottish Executive in September last year. That is a long time ago and things could have happened since then. Let us give the minister the benefit of the doubt; perhaps she has taken the issue on

board. If you are saying that a Scottish Executive news release is a response from a minister to a formal committee of the Parliament, I do not think that that is on.

**The Convener:** Okay, but we know what the minister's position is on the issue. What we do not know is the minister's response with respect to the issues that the Justice 1 Committee is considering. When writing to the Justice 1 Committee, we can ask it to take up the points that have been raised this morning by Mr Harte and Mrs Street. In that way, we could elicit a response from the minister.

**Linda Fabiani:** Could we also ask the Justice 1 Committee to ask those specific questions?

**The Convener:** That is what I said.

**Linda Fabiani:** Well—

**The Convener:** If we write to the Justice 1 Committee and give it a copy of the *Official Report* of our meeting, as we always do, and ask it to take on board the points raised by Mr Harte and Mrs Street this morning, those are the questions that the committee will put to the minister, if we ask it to do that specifically.

**Linda Fabiani:** That covers one element of the issue. I shall take it on myself to cover some of the others. That is fair enough.

**The Convener:** Are members happy with that?

**Members indicated agreement.**

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

### **Housing (Scotland) Act 2001 (PE721)**

**The Convener:** Petition PE721, which was lodged by Alan McLauchlan, calls on the Scottish Parliament to urge the Scottish Executive to produce authoritative guidelines in relation to provisions contained in the Housing (Scotland) Act 2001 and to ensure that those guidelines and adequate advice on the act are available to all tenants who sublet, assign, or exercise the right of other provisions contained within the act. Before it was formally lodged, the petition was hosted on the e-petitioner site, where it gathered two electronic signatures during the period 23 February 2004 to 20 March 2004.

Section 32 of the Housing (Scotland) Act 2001 provides that a tenant of a Scottish secure tenancy may sublet the tenancy with the landlord's consent. The landlord may withhold consent only if there are reasonable grounds for doing so. The act does not specify the length of time for which a tenancy may be sublet and the explanatory notes to the act offer no guidance on the matter.

The petitioner's landlord refuses to allow a subletting for longer than six months or, in

exceptional circumstances, one year. It is open to the petitioner to appeal to the court by way of summary application if he considers that consent was unreasonably withheld. I remind members that the committee cannot become involved in the petitioner's individual case, but that we may discuss the issues that the petition raises. Do members have views on the petition?

**Linda Fabiani:** I should say that I am a member of the Chartered Institute of Housing in Scotland. In fact, I am a fellow of the institute—I was promoted.

I recognise that the petition is about an individual case, but I have dealt with similar cases in the past. Given the way in which people live nowadays, there are times when subletting and assigning are sensible courses of action. Sometimes the term of the subletting should be longer than six months or even a year. For example, someone might have an overseas contract for two years or they might go away to study. Should someone have to give up their home because they are going away to study for two years? The petition raises an issue.

Of course, we cannot comment on an individual case. Every case is different: sometimes a longer subletting is justified and sometimes people just want to screw the system—that is just the way life is. We could ask for comments from the people who know what is happening on the ground, such as the Scottish Federation of Housing Associations and the Chartered Institute of Housing in Scotland. We could also ask the Minister for Communities to comment in relation to the 2001 act, as there might have been good reasons why it was drafted as it was. I do not think that there is anything else that we can do at the moment.

**John Scott:** The specific case that the petitioner raises is definitely a matter for the courts. It is for the tenant to prove that consent has been unreasonably withheld and that can happen only in the context of an appeal to the court. We cannot get involved in the individual case, however valid it might be. That is not a job for us. However, it would be reasonable to ask the Executive whether it intends to produce guidelines along the lines that the petitioner proposes, given that there appear to be no such guidelines.

**The Convener:** Are members happy to follow Linda Fabiani's recommendation and to contact the organisations that she suggested?

**Members indicated agreement.**

### **Green-belt Sites (Scottish Executive Policy) (PE724)**

**The Convener:** Petition PE724, which was lodged by Grace McNeil, calls on the Scottish Parliament to urge the Scottish Executive to review its policy on green-belt sites. The petitioner is concerned about the potential impact on wildlife of the proposed development of an area of green-belt land in North Lanarkshire.

At its meeting on 3 March 2004, the committee considered a similar petition, PE712, which was lodged by Shirley McGrath and called on the Scottish Parliament to ensure that green-belt land is given the appropriate legal protection. At that meeting, the committee agreed to ask the Executive to comment on PE712 and to indicate whether it plans to address issues to do with green-belt sites through existing or proposed legislation. The committee has not yet received a response from the Executive.

Margaret Mitchell wants to speak to the petition.

11:30

**Margaret Mitchell (Central Scotland) (Con):** Thank you, convener; I am grateful to you for giving me the opportunity to speak to this petition. Although the petition focuses on one particular site, a general issue arises because of the fear of an increasing presumption in favour of developing green-belt sites when adequate brownfield sites are available.

If the green belt is developed to an unacceptable extent, we will be looking at wall-to-wall development and urbanisation. The petitioners would like the Public Petitions Committee to consider this issue, which seems to be more of a problem in certain local authority areas. For example, in North Lanarkshire in the past four years, 19 greenfield sites have been notified to the Scottish Executive as a result of the council giving planning permission for the sites. I ask the committee to consider the protection of greenfield sites—and all the implications for heritage, flora and fauna.

**Carolyn Leckie:** This petition, if considered with the previous petition on this issue, shows that there is a trend. That trend has been caused by local authorities trying to supplement their income. The bigger political issue is that green-belt land is being encroached on because local authorities are selling it off. They are selling off school sites as well.

We have asked for a response to PE712, but we have yet to receive it, although we considered that petition on 3 March. We asked the Executive a specific question on its plans in relation to the Nature Conservation (Scotland) Bill, which was

debated at stage 3 last week. It is wholly unacceptable that the Executive does not act on the requests of this committee within the times that we ask for, especially when legislation is going through. In this case, a deadline was missed. We should convey to the Executive the message that that is absolutely unacceptable.

We should write to the Executive to ask all the questions again. In addition, I would like us to write to the Convention of Scottish Local Authorities. We should obtain information—from COSLA, the Scottish Parliament information centre or wherever—on the statistics for encroachment on green-belt land. How much of that land has been developed? Margaret Mitchell spoke about 19 cases in North Lanarkshire. I do not know the numbers, but I know that such things are happening in South Lanarkshire all the time. I suspect that that is the picture throughout Scotland, but I would like to know the exact picture. This is a serious issue and we should pursue it vigorously.

**Helen Eadie:** I am happy for us to write to the Scottish Executive, but I am not aware of it ever having said that it wanted more development of greenfield areas. The position is quite the reverse. It has been announced at UK level and at Scottish level that development of brownfield sites is wanted. Having been on the planning committee of the council in Fife for 13 years, I know that the Government was adamant that we should not encroach on greenfield sites. It was the development of brownfield sites that it was after.

**Jackie Baillie:** I have no problem with associating this petition with the petition that we considered previously, and I have no problem with our writing again to the Executive. However, as in all planning issues, there is a balance. Although 19 decisions may have been notified in one local authority, I am unsure how many of them were then supported by the Executive.

Where there are brownfield sites, it is perfectly legitimate that they should be used first, before the green belt is encroached on. There will be some areas where limited encroachment on the green belt is desirable and desired by the local community. I would expect that to be reflected in any strategic local plan to ensure that those kinds of issues are taken on board and bottomed out where legitimate development is required.

Although I support the general recommendation, I want to nail any suggestion that local authorities are in some way benefiting from the sale of green-belt land. I can speak only for the local authorities that I know, but they tend not to own land in the green belt. They do not benefit financially from the sale of green-belt land and, in any case, if the local authority owned land, under current planning legislation, it has to notify that interest

automatically to the Executive and the application is also referred to the Executive.

**The Convener:** Are members happy that we ask where the response is to PE712 and that we consider this petition with PE712 when the response returns to us from the Executive?

**John Scott:** Notwithstanding what Jackie Baillie said about local authorities not benefiting in her area, they certainly do in other areas. It would be worth inquiring of the Executive whether the trend of local authorities going into green-belt land for their own financial benefit is on the increase.

**Linda Fabiani:** That is fair enough, but we are dealing with separate issues. Local authorities sell off land and they benefit financially when they do that. I am opposed to what is happening in South Lanarkshire, for example. However, when one talks about going into the green belt, one often means buying land from farmers rather than buying land from local authorities. We are in danger of being caught between two stools here. If we ask about local authority ownership of green-belt land, we will not address the major issue that Carolyn Leckie spoke of in the first place.

**The Convener:** Are members happy to write to the Executive to chase up the response to the original petition and then consider both petitions together when we receive the responses?

*Members indicated agreement.*

### **TETRA Communications System (Health Aspects) (PE728)**

**The Convener:** Petition PE728, in the name of Paul Goddard on behalf of Comrie Action on TETRA, calls on the Parliament to urge the Executive to carry out a full inquiry into the health effects of terrestrial trunked radio communication masts and to implement an immediate moratorium on the installation and activation of the system until the outcome of such an inquiry is known.

At its meeting on 3 March 2004, the committee formally referred a similar petition, PE650, to the Communities Committee for further consideration. That committee has requested an update from the Executive on the status of its research report on the effectiveness of current regulations and has asked for views on the petition from police organisations, the Health Committee and the Environment and Rural Development Committee. The Health Committee has indicated that it will appoint a reporter to attend the relevant meetings of the Communities Committee should it decide to investigate further the issue raised in the petition.

The petitioners have provided further evidence in support of their petition and it has been circulated to the committee. Given that the Communities Committee is currently liaising with

the Health Committee on PE650, it could be suggested that we agree formally to refer PE728 to the Communities Committee for consideration along with PE650. What do members think about that?

**Helen Eadie:** I am happy to follow the suggestion that the Communities Committee might wish to consider PE728 further along with PE650.

I think that the clerk wants to ensure that we have read the papers because it says there that the committee met on 27 May 2004—we must be going back to the future. I am just being a smart Alec and pointing out that I think that the clerk meant 27 April 2004.

**Linda Fabiani:** It should be mentioned that because they are raising a health issue, the petitioners would be concerned if the petition went only to the Communities Committee. It should be on record that although we are referring the petition to the Communities Committee, that committee has already passed on the issues that arose from its consideration of the previous related petition to the Health Committee and to the Environment and Rural Development Committee. The assumption is that the same would be done with this petition.

**The Convener:** Are members happy with that?

*Members indicated agreement.*

### **Autism Treatments (PE729)**

**The Convener:** The next petition is PE729, on a conference on autism treatments. The petition is in the name of Bill Welsh, on behalf of Action Against Autism. The petitioner calls on the Parliament to urge the Executive to fund as a matter of urgency a two-day conference on autism treatments so that parents, professionals and medical doctors can receive information and practical advice on the screening and testing of autistic children and adults, leading to individually tailored treatment protocols, which are emergent in the United States of America. The petitioner suggests that the conference should be based on the "Defeat Autism Now!" two-day mini-conference programme, which focuses exclusively on a protocol for testing and treatments for autism spectrum disorder.

On 3 March, the Deputy Minister for Health and Community Care announced a funding package of almost £2 million to provide opportunities for training, awareness raising and better service provision through multi-agency working to support people with ASD throughout Scotland. The Scottish Society for Autism and the National Autistic Society Scotland have welcomed the minister's announcement.

What do we do with the petition?

**Linda Fabiani:** I wonder whether the Executive has already turned down a request for such a conference and that is why the request has come to us, or whether the request has come straight to us. Do any members know?

**John Scott:** Although it is a worthy idea to have a conference to examine the ways of treating ASD, we should write to the Scottish Society for Autism and the National Autistic Society Scotland before we write to the Executive seeking a conference, because there is only one petitioner. It would be worth while garnering the views of those two organisations before we write to the Executive so that we can at least be sure whether their view, not only that of the single petitioner, who is apparently only one voice, is that we should write and request a conference.

**Jackie Baillie:** The central question was asked earlier. I have no problem with John Scott's recommendation, but we do not know whether the petitioner has approached the Executive and I would have thought that common sense dictates that if somebody wants the Executive to fund something, they should approach it directly in the first instance. I would expect the Executive to take wider soundings from organisations such as those that John Scott mentioned so, although I endorse that proposal, we should tell the petitioner that he should perhaps write to the Executive.

**Carolyn Leckie:** We do not know that the petitioner has not done that. I remind the committee—although I hope that it is not necessary—that we refer petitions to the Executive for comment on the basis of a single petitioner's request all the time, so I do not know why PE729 should be any different.

The bullet points that we have in our briefing on what the Executive is already doing do not address the issues in the petition, which concern treatments. There is a question about the funding, energy and resources that are devoted to developing and examining treatments that are still in their infancy but showing signs of success in America, and the petition is a mature way of posing that question. Rather than saying that we should make funding and energy available to develop such treatments—which we should—it says that, because people need to be persuaded, we should bring the experts to Scotland, have a conference and involve all the health professionals and interested parties in Scotland in discussing the merits of treatments. Then we can have the debate about the amount of funding and resources that are made available for, and the energy that is put into, the development of treatments.

We should not put any obstruction in the way of that request, but we should seek clarification. I thought that the terms of submission for a petition included asking whom the petitioner had already

approached, so I would hope that we have that information. If we do not, we should clarify what approaches have been made, but there is no harm in writing to the Executive to seek its views. For its response, whether affirmative or negative, it would seek other organisations' views. That should not prevent us from asking the question.

**Linda Fabiani:** We should do something else in tandem with what John Scott suggested. The Executive has confirmed funding for addressing various elements of autistic spectrum disorder. There is nothing to prevent us from writing to the Executive and asking whether it would be minded to fund the proposed conference from the agreed funding. I note that the petition uses the word "urgent", so it would be good to get the Executive's answer to the funding question at the same time as its response to the rest.

11:45

**Susan Deacon:** I have just a couple of comments. I am conscious that I am a novice on the Public Petitions Committee, which has probably been obvious from my contributions already today. Within the parameters of health bodies, let alone more widely throughout Scotland, there are hundreds of organisations that might want to hold what could be an important and valuable conference. If I were a full member of the committee rather than a substitute one, I would be concerned about people always coming here to ask the kind of question that PE729 asks.

It is important to think about the best way of making things happen in Scotland. Encouraging direct approaches to the Executive or to other funding bodies is a valuable thing to do, but so is encouraging different groups to form coalitions. Some superbly successful conferences were held during the first parliamentary session. For example, the big cancer conference, which the cross-party group in the Scottish Parliament on cancer promoted, brought together a tremendous coalition of people. There is also the cross-party group in the Scottish Parliament on autistic spectrum disorder, but I do not know whether it is part of the petition's equation.

I realise that it is perhaps a hard message to convey, but putting responsibility back on to an organisation can sometimes be the right thing to do to get the best results.

**The Convener:** I am sorry to cut Helen Eadie off before she speaks, but I have one observation to make. Although, as John Scott noted, the petition is in one person's name, it is clear that the petition is on behalf of Action Against Autism. The petitioner is the chairperson of that organisation, so we are not talking about just one individual who has come up with a bright idea. The petition is on

behalf of a group that obviously feels that it has an input to make. We must try to find out how we can assist in raising the question that the group has put in the petition.

**Helen Eadie:** I hear what you are saying, convener, but I have much sympathy with Susan Deacon's point. I take Carolyn Leckie's point about bringing people together, which is a good thing to do. However, we should not always think that it is the job of Government to bring people together to undertake conferences. Only two weeks ago in this room, I hosted a conference on skin cancer, which more than 100 people attended. There is nothing to prevent any individual MSP or any group of people from facilitating a conference of that sort. Those groups that Jackie Baillie highlighted should rightly form a collective to organise and facilitate a conference. In many ways, it can be better for a group to organise its own conference because it can do so to its own prescription rather than to that of the Executive. Therefore, I am in the camp of following John Scott's suggestion and of clarifying, as Linda Fabiani and Jackie Baillie said, whether the petitioners have made a direct approach to the Executive.

**John Scott:** For the avoidance of doubt, I state that I am in favour of having a conference, but it would be better for the committee to write to the Executive with the evidence from the Scottish Society for Autism and the National Autistic Society Scotland in support of the petition. We would be more likely to get a positive result by doing that. The Executive is aware of the problem of autistic spectrum disorder and it is putting £2 million towards addressing it. However, if a conference were organised with money from that budget, something else would suffer. Therefore, I presume that new money would be sought.

**Carolyn Leckie:** I have a couple of points. I am a wee bit disappointed, given the sort of experience that I have had in this committee, which generally operates on the basis of consensus and being positive about petitions that offer new ideas and seeking to facilitate rather than obstruct them. The petition is from an organisation that has a specific request for the Executive and on every other occasion when we have been in this position we have agreed at least to write to the Executive before we decide to do anything else, such as referring the petition to a committee.

The conference that has been asked for is an international conference that would bring experts from other countries. It is one thing to ask a charity to organise a one-day or half-day event that brings together Scottish health professionals, but it is another to say to a charity, "It's your responsibility to go and organise an international conference."

The point is the willingness of the Executive to recognise that there is an area of discussion that it is required to facilitate and support. That is a political point that the Executive should address, because there is a particular area that the Executive has not given enough attention to.

Lastly, if members are concerned to receive clarification, the petitioner is here, so we can seek clarification directly. The request is for a conference by 2005. We should not do anything that might delay that.

**The Convener:** We would not do anything to delay that, but we cannot accede to your request, because we would have every petitioner turning up and sitting in the public gallery hoping that they would have the opportunity to give evidence. That is why we operate in the way that we do. We take requests to speak and we choose. I know that it is difficult, but we have to do that, and on the basis of the information that is in front of us.

**Jackie Baillie:** We are in danger of saying that there is something about the issue with which we do not find favour. We need to set that aside because, as Carolyn Leckie rightly said, in the past the committee has been sympathetic, not just to this issue, but to a wide range of issues.

It is not about whether there is one petitioner or 100 petitioners—let us set that aside, because it is a red herring—it is about the nature of the request. Are we saying that we welcome petitions that make requests of the Executive that are not about policy changes—be they complex or simple—but about day-to-day operational matters and which ask whether the Executive will support a conference on a particular subject? If we are saying that, we will open up the floodgates to a whole series of petitions that make similar requests.

As a parliamentary committee, we should not intervene in what should be a direct relationship between organisations and the Executive. It may well be that if we took a considered view, it would be that the Executive should support the request, but the question is whether the petitioners have approached the Executive directly. I do not think that we should be some kind of clearing house that says, "These are the things that we like; therefore, Executive, will you fund them?" I would much rather that there was a direct approach. That is all that we are unclear about at this stage.

**The Convener:** In the submission from the petitioner there is no indication that a request was made to the Executive and there is no information that a request was turned down. To help things along, we could write back asking for that information. We can encourage the petitioners to go to the Executive and then, if they fail, they could come back to us and ask for support in making the conference happen.

There is a general feeling in the committee that the proposed conference would be a good one and that it is what should be done on the issue, but that it is not for us to request on behalf of organisations that the Executive should pay for their conferences. It is for such organisations to seek support from the Executive. We can help them if they fail, but we have no evidence that the petitioners have sought funding from the Executive to hold the conference. We have to clarify that. Most members are saying that, if not you, Carolyn.

**Carolyn Leckie:** If we seek clarification on whether an approach has been made to the Executive and it transpires that an approach has been made and the response has not been favourable, we should not have to wait until we have another meeting before we write to the Executive.

**John Scott:** I want to try to find a solution to this. I am perfectly happy for us to write to the Executive in addition to writing to the two other organisations along the lines that Carolyn Leckie suggests. If we believe that having a conference is a good idea—as I believe that we do—our case would be strengthened when we write to the Executive if we had the support of the other organisations in addition to Mr Welsh's view. It is a question of semantics. We are all agreed, so if Carolyn Leckie or the rest of us want to write to the Executive, that is not a problem.

**The Convener:** It is not a problem, but I have to agree with Jackie Baillie that we would be setting a dangerous precedent if the committee was the first port of call in setting up a conference of this nature. We can assist organisations that are experiencing difficulty, but I do not think that we should be the conduit through which a request to hold a conference would go. That is what I am concerned about. We have to try to be helpful, but we could do so by encouraging the organisation to go to the Executive to make its request. We can then assist once we know the answer to the request if the organisation is not happy with the outcome. We have to be careful that we do not become the sounding board for requests to the Executive for conferences. I agree with Carolyn Leckie that as we have discussed the subject at great length, we will not need to take a lot of time to address the matter again if it comes back to us. However, it might not have to come back to us if the organisation writes to the Executive itself.

**Helen Eadie:** I agree.

**Linda Fabiani:** I agree completely with what the convener has just said. We can bring the matter back to the next meeting, which is only two weeks away.

**The Convener:** I am sure that we will get a speedy response.

**John Scott:** Will we write to the other organisations in the meantime?

**The Convener:** Yes. We do not have any difficulty with that. We will await the outcome and try to be as helpful as we can to all the organisations.

We have completed our consideration of new petitions. We have eight current petitions to consider. Do members wish to have a break before we start on them?

**Members indicated agreement.**

11:57

*Meeting suspended.*



12:08

*On resuming—*

## Current Petitions

### Institutional Child Abuse (PE535)

**The Convener:** Item 3 is consideration of current petitions, the first of which is PE535. The petitioner calls on the Scottish Parliament to urge the Scottish Executive to establish an inquiry into past institutional child abuse, in particular abuse of children who were in the care of the state under the supervision of religious orders. The petition also calls for the Executive to make an unreserved apology on behalf of those state bodies and urges the religious orders to apologise unconditionally.

At its meeting on 25 March 2003, our predecessor committee considered responses from the Scottish Executive and the cross-party group on survivors of childhood sexual abuse. The committee noted with interest that the Executive was considering some form of inquiry into abuse in institutions, but expressed concern that there was no indication of the timetable for a decision on how the Executive intended to progress that extremely important matter. Our predecessor committee urged the Executive to develop its thinking on the matter and asked for an update to be provided to us early in the new session, if possible by mid-June 2003.

Despite a number of reminders, no response has been received from the Scottish Executive, although Executive officials have told our clerks that we should receive a response soon. We have also received further correspondence from the petitioner in which he argues that Scottish victims and survivors should be given the same recognition as survivors in Ireland. He also notes that

*"Counselling, compensation and pastoral services help Irish survivors in the process of healing and reconciliation."*

Does any member have a comment to make?

**Linda Fabiani:** I was, when I read the paper, absolutely appalled to learn that our predecessor committee asked the Executive for a response more than a year ago, but no response has been forthcoming. That is completely unacceptable.

In October last year, following representation by people in my constituency, I wrote to the First Minister. An article had appeared in the *Sunday Mail* last June in which the First Minister said that he had ordered a study to be carried out into how the Irish Government under Bertie Ahern had progressed the issue. I did not get a response to the letter. In April this year, I wrote again, asking for an answer to my first letter.

Not only has our predecessor committee been badly ignored, but MSPs who have written to the First Minister on the subject have been ignored. I have waited for some seven months for an answer on the issue. I want the committee to write in the strongest possible terms to the Executive to say that it is treating Parliament with contempt, and that it is treating people who have suffered abuse and who are waiting for answers with the same contempt.

**Jackie Baillie:** Like Linda Fabiani, I have pursued the matter at local level on behalf of a constituent who was abused in care. I have no doubt that the experience in Ireland, Wales and elsewhere has been much more positive in terms of addressing the issues and bringing a sense of closure for those involved. A number of not only emotional, but legislative issues lie behind PE535 and I support the establishment of a commission, an inquiry or some other way of progressing the matter for the survivors who must live with the legacy of abuse.

When I wrote to the Executive, I received responses from the ministers who had responsibility for justice. Although I cannot find the reference, somehow I got a sense that the Executive was considering the establishment of some sort of inquiry. If that is the case, I would support it whole-heartedly. We should pursue ministers for a timetable for the inquiry—people have waited long enough for one.

**John Scott:** I agree with what has been said. Given the First Minister's apparent involvement thus far, we might wish to copy the letter from the petitioner to him for information.

**Linda Fabiani:** I am certainly not an expert on the subject, but the people whom I am helping have expressed the concern that it is likely that some cases will become time barred in respect of compensation. I cannot remember the timescale in which that could happen, but it is another big issue. The delay in putting an inquiry in place could take away the rights of many people.

**The Convener:** We discussed a petition earlier this morning in which the delay in a response from ministers was noted. That problem is also apparent in respect of PE535. I know that we have agreed as a committee that we want to tighten up our procedures so that we can keep on top of petitions; the clerks are working hard to sift through the outstanding issues so that we can keep up to speed. That work is part of the reform of the way we do our business.

Given that we have had on a number of occasions to comment on the lack of timely responses from ministers, and that the First Minister is responsible for ministers and for how they respond, it would not be wrong of us to ask

the First Minister to ensure that he and his ministers treat the Public Petitions Committee with some respect and give us the timeous responses that we seek. It is important that we do not go from one meeting to the next without eliciting a response from the responsible minister on an issue as important as this.

12:15

**Helen Eadie:** On that point, which is separate from the agenda item that we are discussing, it must be possible for the committee clerks each month to generate a report for us on the responses that have been received. I could provide the clerks with a piece of paper—if they do not already have it—that highlights the fact that such software is available.

**The Convener:** The clerks have a grid in which they try to do something similar to that. If you wanted to approach them on the matter, I know that they would respond to any assistance that you could give. However, they have a mechanism for recording the information. The reform of how we do our business is designed partly to enable the clerks to remain focused on the position that has been reached with petitions and responses to them. I am sure that they would welcome an opportunity to talk to you.

**Helen Eadie:** I suggest that a report highlighting the cases in which we have been awaiting a response for more than six months be attached to the agenda for each meeting.

**The Convener:** I am not trying to dissuade you, but I am not sure that it is appropriate to discuss in public how the clerks operate. It may be more helpful for you to discuss the matter with them privately than to do so in an open forum such as this.

A number of recommendations have been made in relation to the petition. It has been suggested that we write back to the minister, that we write to the First Minister and that we seek the information that the petitioner wants. Is that agreed?

**Members** *indicated agreement.*

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

**The Convener:** The next petition for consideration is PE601, on solicitors' monopoly on paid court representation. The petitioner 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 a submission for rights of audience in Scottish courts.

At its meeting on 3 March 2004, the committee considered responses from the Executive and the petitioner and agreed to request further clarification from the Executive on the issues that are raised by the petition. In its response, the Executive states that it

"does however wish a more certain evidence base on which to found a decision on whether or not to commence sections 25 to 29 of the 1990 Act. As our legal services market is very different in nature and scale from the much larger market in England and Wales, it would not be prudent to base a decision in Scotland simply on experience south of the border, however that experience is assessed."

The Executive confirms that it intends to commission research into the legal services market in Scotland and that it will let the committee know the outcome of its review of the research findings.

The petitioner has provided further material in support of his petition, in which he states:

"The case for research into the legal services market is to be blunt a 'red herring'."

In a letter dated 1 April 2004, he states:

"It seems that the Justice Minister has made up her mind as to the outcome of the legal services research she has instigated and that there is to be no competition for Solicitors."

Mr Alexander also suggests that competition matters affecting the legal profession are reserved and come under the direct jurisdiction of the Office of Fair Trading.

**Linda Fabiani:** Is there any indication of a timescale for the research?

**The Convener:** There is no such indication in the papers that I saw.

**Linda Fabiani:** I understand why the petitioner feels that it is a fudge for someone to say that they will examine an issue and do some research but not to indicate how or when that research will be done. That does not invite confidence. I am not giving an opinion on what I think the minister intends to do. However, I understand the dissatisfaction of petitioners who are told more than a year down the line that further research is required but the Executive does not know how or when that will be done.

**John Scott:** I agree. Is it within our remit to write to the OFT to ask it how it views the situation in Scotland? Are we technically competent to do that?

**The Convener:** I think that we are. The OFT covers issues in Scotland, including issues that relate to the Scottish Parliament. There is no reason why we should not write to the OFT.

**John Scott:** Were the OFT to express a view on the matter, that might be further ammunition to

encourage the Executive to move in one direction or another.

**The Convener:** Are members happy to seek a response from the OFT and timescales for the research from the Executive?

**Members** *indicated agreement.*

### **Local Archives (PE628)**

**The Convener:** The third current petition is PE628, which is on local display and storage of Scotland's archives. The petition asks us to consider the introduction of guidance for local authorities to establish best practice for keeping, displaying and storing Scotland's archives where they are relevant locally. It also asks that such archives be publicised and that we ensure that such heritage is not damaged or diminished because of the lack of a national policy.

At its meeting on 25 June 2003, the committee agreed to seek the views of the Scottish Executive and the Society of Archivists and to ask Scottish Borders Council to provide details of its proposals to relocate the Selkirk archives. The Executive response states:

"The Scottish Executive recognises the cultural and historic importance of Scottish archives, at both national and local level, and is keen to see them properly preserved so that the best use can be made of them. It is not, however, for the Scottish Executive to tell local authorities where to locate their records or archives—that is entirely a matter for the authorities themselves to decide."

The Executive also states that it has begun preparatory work on the development of a Scottish public records strategy—or SPRS—which will introduce measures for managing public records in the 21<sup>st</sup> century. The particular needs of local archives will be an important part of the SPRS.

The response from Scottish Borders Council states that the council supports the petitioners' suggestion that the Executive should introduce guidance and make proposals on how archives should be publicised. Despite several reminders, no response has been received from the Society of Archivists.

Do members have any comments?

**John Farquhar Munro:** This is quite a common problem throughout the country. It is commonly known—as the Executive response states—that responsibility for the archives rests with local authorities. However, many local authorities find themselves in difficulties. As space for storing archives is scarce, the archives are invariably removed to a central location in order to safeguard them for future generations, which is not the best use of the archives. The petitioners clearly want us to encourage local authorities to retain their archives where they are relevant. There is no point

in having an archive in Edinburgh that relates to somewhere quite remote from it.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Selkirk is in my constituency, so I have liaised with the petitioners and Scottish Borders Council, which proposes to move the archives to Hawick, which is not in my constituency but in that of my colleague, Euan Robson. Obviously, we separate on this issue.

In my latest discussions with Scottish Borders Council, the archive officers told me that their choice of location for the archives relied on the advice of the Keeper of the Records of Scotland, who had concerns about the safety of the archives in their current location. That is what stimulated the move to Hawick.

My discussions were about public access to the Selkirk archives, which are arguably important to the culture not only of the Borders but of Scotland, especially because they contain the decree in which Sir Walter Scott was made sheriff of Selkirk. It may be useful for the committee to know that we discussed how the records could be scanned and made available over the internet. Scottish Enterprise owns a converted mill in Selkirk that has access to broadband, which would provide an excellent location for viewing the records in a way that was both safe for the archives and accessible for school groups and others.

However, the council is relying on the Executive to introduce a strategy to indicate how scanning should take place and what processes should be used. It would be useful if the committee could make progress on that. When the move goes ahead, it would certainly reassure users of the Selkirk archives to be told that they would have access to the records through a medium that belongs to the 21<sup>st</sup> century rather than the probably limited access that was previously available in what was a rather unsafe room.

**The Convener:** I wonder whether we could invite the Executive to tell us whether a strategy such as that could be part of the SPRS that they are establishing. We could ask whether use of the internet to provide access to such records is part of the SPRS. We cannot ask specifically about the Borders as that is a matter for Scottish Borders Council to deal with—I think that members appreciate that.

**Jackie Baillie:** That is a good idea. Another suggestion is that we could copy the Executive's response to Scottish Borders Council, point out in our covering letter that accessibility could be provided in new and innovative ways and encourage the council to do so. That perhaps accommodates the point that Jeremy Purvis raised.

**John Scott:** Would that allow us to close the petition?

**The Convener:** We will have to wait until we get a response from the Executive. I expect that the Executive will either say yes or no. We will ask the Executive whether internet technology will be used as part of its strategy and when have received a reply we can determine whether to close the petition.

Are members happy with that?

**Members** *indicated agreement.*

### **Forestry Commission (Consultation Guidance) (PE691)**

**The Convener:** The next petition is PE691, which calls on the Scottish Parliament to investigate the Forestry Commission's implementation of its guidance on consultation with residents of areas that have widespread logging, drainage and planting activity nearby.

At its meeting on 7 January 2004, the committee agreed to write to the Scottish Executive to seek its comments on the issues that are raised in the petition and an indication of whether it is content that the Forestry Commission adheres to its guidance on consultation. The Scottish Executive passed the committee's request to Forestry Commission Scotland, which states in its response:

"In relation to the concerns of the Burnawn Residents Group, as expressed through Boyd Calder's petition, we can assure the Committee that Forestry Commission Scotland has adhered to its guidance in relation to consultation, and has sought to encourage the various parties involved to discuss their concerns."

The commission provides details of its consultation procedures and a case history of the issue identified by the petitioners. Do members have any comments?

**Linda Fabiani:** I think that there is nothing else that we can do except send the response to the petitioners and ask for their comments. We can then reconsider the petition.

**Helen Eadie:** I was concerned that the paragraph that the convener read out from Forestry Commission Scotland's response states that it had "adhered to its guidance". Does that mean that it has adhered to the forestry guidance? If so, it might be worth asking about the comparability of the forms of guidance because as we all know—we have seen it ad nauseam in health boards throughout Scotland—different ways of consulting can produce different results. I would like clarification on that point. We should perhaps write to the Forestry Commission to ask what its guidelines are and on what basis it formulates them.

**John Scott:** The guidelines are clearly set out. From the response that Forestry Commission Scotland has given, it is clear that it has adhered to the guidelines that are set out by Government on felling licences and consultation.

**Helen Eadie:** The point is that we know that for a long period of time guidelines have been updated regularly in different agencies and different Government departments, but we have uncovered that in some cases the last time that the guidelines were updated was a date that was not acceptable. That is the clarification that I seek. It would be useful to write to the Forestry Commission to ask it for a copy of the guidelines and to find out when they were last updated.

**John Farquhar Munro:** When the petition was originally presented, I think that it was determined that most of the activity to which the complaint relates took place on private property and was being undertaken by a private contractor outwith the remit of the Forestry Commission, although it issued the licence for the operation to go ahead. I do not think that the Forestry Commission had hands-on involvement.

**The Convener:** In response to Helen Eadie's comments, I think that the point of the petition was that the petitioners were aware of what the guidance was and they did not believe that the Forestry Commission was adhering to its own guidance. That was the problem.

The Forestry Commission has written back to say that it thinks that it has adhered to its guidance. If we were to write to the petitioners, we could ask them to clarify where they think that the Forestry Commission has not adhered to its guidance and we could take matters from there. I do not think that our receiving the guidance would help us to consider the petition.

12:30

**Helen Eadie:** I am happy to support that, but there is the gatekeeper issue. The Forestry Commission is saying what the guidance is, but I would be happier if we could see what the guidance is.

**John Scott:** If I may, I will try to explain the point. I think that there has been a misunderstanding on the part of the petitioners, who think that the Forestry Commission has somehow not followed the guidance. It is my understanding that the consultation process takes place before the tree-felling licence is granted; the note accompanying the Forestry Commission's letter confirms that. Thereafter, everything flows from that—there is no separate consultation for the replanting that takes place after felling.

The petitioners were concerned about the fact that the consultation took place before the felling licence was granted. They were worried about the fact that the Forestry Commission had allowed forestry drainage to begin before any input or objections from members of the public or statutory bodies had been received and considered, but such objections should have been submitted and considered before the tree-felling licence was granted rather than after the trees had been felled and replanting was to take place.

In my view, the Forestry Commission has given a very full response and the tone of its letter indicates that it has behaved entirely appropriately.

**Helen Eadie:** I accept the convener's suggestion.

**The Convener:** We will ask the petitioners to give us a response. That will enable us to assess the issue from both sides. Is that fair?

*Members indicated agreement.*

### **Traffic Commissioners (PE692)**

**The Convener:** Our next petition is PE692, which relates to the responsibilities of the Scottish traffic commissioner. The petitioner calls on the Scottish Parliament to investigate the Scottish Executive's role in the appointment of the Scottish traffic commissioner; to consider whether road, freight and passenger transport should be the responsibility of the Scottish Parliament; and to advise whether the Parliament can debate the alleged discrimination against Scottish businesses by traffic commissioners.

At its meeting on 7 January 2004, the committee agreed to seek clarification from the Executive on its responsibilities in relation to the work of the Scottish traffic commissioner and confirmation of whether individuals may seek redress for any problems that they may have with the actions of the STC. The committee has received a response from the Scottish Executive, in which it states:

"Issues relating to the registration of bus services are devolved but the other functions of the STC are reserved."

The Executive also provides details of where redress in relation to the STC's decisions may be sought. Do members have any views on that?

**Linda Fabiani:** I seek clarification. I meant to read the *Official Report* of our previous discussion of the petition before I arrived, but I did not—I am sorry. From our papers, I am aware that we agreed to ask only about the traffic commissioner element of the petition; we have not addressed points (b) or (c). There must have been a reason for our not doing that, and I meant to look back to find out what it was. Can anyone refresh my memory?

**The Convener:** I think that it was because it was clear that points (b) and (c) were identifiable as reserved matters.

**Linda Fabiani:** That is what we agreed at the time.

**The Convener:** Yes.

**Linda Fabiani:** That is fine; thank you.

**The Convener:** I presume that that closes our consideration of the petition, unless—

**Jackie Baillie:** I agree that it closes our consideration of the petition. We agreed to investigate matters further and we have now done so. The response from the Executive is clear. I suggest that, if Trans Consult Co UK Ltd has lingering concerns, it should raise them with the Transport Tribunal.

**The Convener:** Is that agreed?

*Members indicated agreement.*

### **Disabled People (Local Transport) (PE695)**

**The Convener:** Our next petition is PE695, which calls on the Scottish Parliament to ensure that local authorities make available affordable and accessible local transport to disabled people who cannot use public transport and asks that ring-fenced funding be provided to allow local authority and/or community groups to establish dial-a-ride projects for that purpose.

At its meeting on 7 January 2004, the committee agreed to write to the Executive to seek its comments on the issues raised in the petition and to say that it would welcome further details of the measures that the Executive was taking to promote accessible transport schemes for people with disabilities, especially in urban areas. In particular, the committee requested details of any plans to roll out to other areas the pilot schemes that operate in Angus and Aberdeenshire or to provide funding to ensure that local authorities provide dial-a-bus, dial-a-ride and other relevant services. The committee has received a response from the Scottish Executive, in which it states:

"Under the Partnership Agreement the Executive is committed to assessing improved public transport concessions for people with disabilities."

Do members have views on the response?

**Helen Eadie:** Perhaps we could obtain some other stakeholders' views. The committee could invite the Disability Rights Commission Scotland and the Scottish Disability Equality Forum to say whether disability issues have been addressed. That would help.

**The Convener:** Are members happy to do that?

**Linda Fabiani:** We could also invite comments from the petitioners.

**The Convener:** We will reply to them with the responses. Is that agreed?

**Members indicated agreement.**

### **Census Forms (Legal Status) (PE697)**

**The Convener:** The next petition is PE697, which calls on the Scottish Parliament to urge the Scottish Executive to ensure that the information on a census form should have the same legal standing as that on a birth certificate.

At its meeting on 21 January 2004, the committee agreed to seek the Executive's comments on the issues that the petition raises. The committee has received a response from the Registrar General for Scotland, on behalf of the Scottish Executive, in which he states:

"It is not possible in the conduct of a census to include the quality checks on individuals' responses which would be necessary to give them the evidential status of statutory register entries."

He also notes:

"From my perspective, therefore, I recommend that the Parliament should not support the petition."

Do members agree with him?

**Members indicated agreement.**

**The Convener:** In that case, we will close consideration of the petition.

### **Minority Sports (Funding) (PE699)**

**The Convener:** Our last current petition, PE699, concerns sportscotland's policy on funding for talented athletes. The petitioners call on the Scottish Parliament to review sportscotland's vision world class policy and to ensure the equal treatment of world-class athletes by sportscotland and the national lottery.

At its meeting on 21 January 2004, the committee agreed to seek the comments of the Scottish Executive and sportscotland on the issues that the petition raises. The Executive's reply says:

"The Scottish Executive is satisfied that sportscotland is prioritising sports in an appropriate manner according to agreed corporate objectives across the three Sport 21 visions: Widening Opportunities, Developing Potential and Achieving Excellence."

In response to the committee's concerns about consultation, sportscotland said:

"we find it difficult therefore to accept that we have not communicated our intentions with key stakeholders in sport and, indeed, other interested parties over these last couple of years."

The committee may wish to consider whether the response adequately addresses the committee's concerns about the scope and short period of the consultation on sportscotland's achieving excellence strategy. The committee may also wish to note that neither response addresses the petitioners' claim that sportscotland has £13 million in reserve funds.

Jeremy Purvis came to the meeting to speak to this petition, although he took the opportunity earlier to speak to another petition. I will give him the opportunity to comment first.

**Jeremy Purvis:** I am grateful for that and for the opportunity to speak to the earlier petition.

As the convener said, the responses highlight the fact that several matters are outstanding. I declare that I am a signatory to the petition. I cannot speak on behalf of all the petitioners, but I think that a great lack of clarity remains in the Executive and sportscotland about sportscotland's strategies.

I am a member of the Finance Committee, which has examined several targets on culture. Some targets relate to medal winners and success, whereas other Executive strategies concern widening access. The committee could choose to obtain a better understanding of how the talented athletes who are involved in minor sports, in participation terms, will fit into the wider strategies. The Executive has not addressed that. A high level of uncertainty remains about how sportscotland will interpret the Executive's position and its relationship with some of those groups, which have a big impact on communities but do not have the wider impact that soccer and rugby have.

Issues remain about the need for clarity from the Executive and about how some of the smaller sports, including field archery, can link in and have a voice in the process. If the committee decides to take further action, it could seek clarity in relation to those areas and it could ask the petitioners to comment on the responses from sportscotland and the Executive. There is still quite a gap between the views of the petitioners and the views that are stated in the responses.

**Linda Fabiani:** I agree with Jeremy Purvis. We should write again to the Executive and to sportscotland for further clarification and we should write to the petitioners.

We could refer the petition to the Enterprise and Culture Committee, which has taken evidence from sportscotland. We discussed that option, especially in relation to the reserved funds, the first time that we considered the petition. Sport is part of the Enterprise and Culture Committee's remit and it would be useful if that committee could

consider the matter and the issue of minority sports that Jeremy Purvis outlined.

**Helen Eadie:** When we invite sportscotland to give a more detailed response about the scope and short period of the consultation on the achieving excellence strategy, we should also follow up the petitioners' claims that sportscotland has £13 million in reserve and ask the organisation to respond to them.

**The Convener:** In relation to the point that Linda Fabiani made, it has just been pointed out to me that the Enterprise and Culture Committee considered the matter in the context of the budget review.

**Linda Fabiani:** The Enterprise and Culture Committee could widen the scope of its consideration—

**The Convener:** That affects our decision about what to do with the petition. As I said earlier—and as I have said at other meetings—the Public Petitions Committee does not, as a general rule, contact the Executive and another committee at the same time.

I suggest that we seek more information from the Executive. If we think that issues are still outstanding after we have received the Executive's response, we can refer the petition to the Enterprise and Culture Committee and ask the committee to consider the problems that it highlights.

**Linda Fabiani:** Okay. I go along with that.

**Susan Deacon:** For information, I am a member of the Enterprise and Culture Committee and I can confirm that we have touched on the issues that have been raised only in the context of our deliberations on the budget. There are no plans in the committee's current work programme to consider the matter more widely. The Public Petitions Committee may decide to refer the matter to the Enterprise and Culture Committee—I will say nothing about that or I might fall out with my colleagues on that committee.

**The Convener:** We do not have to decide that this morning.

**Susan Deacon:** I just note that the Enterprise and Culture Committee has touched on the issue, but it is fair to say that it has not gone beyond that.

**The Convener:** I do not want to pre-empt this committee's decision, but when we receive the Executive's response we could refer the matter to the Enterprise and Culture Committee for information.

**John Scott:** I have two points. First, Ian Robson said in his letter to the committee that if the London bid to host the 2012 Olympics is successful, there is likely to be an adverse effect

on the money that is available to sportscotland. I am extremely concerned about that.

Secondly, we should ask sportscotland to clarify how it prioritises individual sports. Although the priorities are perfectly laudable—I must declare an interest, because I am a curler—I am intrigued to know why the table entitled "Prioritisation of Sports Scores—Vision World Class" shows curling as the second highest priority, when other sports that might have greater participation are much lower in the pecking order. We are trying to tackle obesity and I would be interested to know whether sportscotland or the Executive sets the criteria.

**The Convener:** We have highlighted a few outstanding points on which we would welcome further clarification. Perhaps we should keep the petition open until we receive further responses. We can then decide whether to refer the petition to another committee for information or to ask that other committee to address the points that have been identified. Are members happy with that recommendation?

**Members indicated agreement.**

**The Convener:** I thank everyone for their participation in the meeting.

*Meeting closed at 12:44.*





Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Friday 28 May 2004**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0870 606 5566 Fax 0870 606 5588

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriel Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
0870 606 5566

**Fax orders**  
0870 606 5588

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

**RNID TYPETALK calls welcome on**  
18001 0131 348 5412  
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers