

PUBLIC PETITIONS COMMITTEE

Wednesday 23 June 2004
(*Morning*)

Session 2

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PUBLIC PETITIONS COMMITTEE

11th 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 :

Mike Dailly (Govan Law Centre)

John Foster (Govan Community Council)

Christine Grahame (South of Scotland) (SNP)

Geoffrey Kolbe (New castleton and District Community Council)

Euan Robson (Roxburgh and Berwickshire) (LD)

Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Wednesday 23 June 2004

(Morning)

[THE CONVENER *opened the meeting at 10:04*]

New Petitions

Sustainable Development (Communities) (PE741)

The Convener (Michael McMahon): Good morning, colleagues, and welcome to the 11th meeting in 2004 of the Public Petitions Committee. As usual, we have a busy agenda. We have received apologies from Carolyn Leckie, who is making her way to Edinburgh from the west—I assume that she has been caught up in the same problems that everyone else has had. I have also received apologies from John Scott, who is unable to attend the meeting—we expect Phil Gallie to be here to deputise for him.

The first item on the agenda is new petitions, the first of which is PE741, which is in the name of John Foster, on behalf of Govan community council. The petition calls on the Parliament to initiate an inquiry into the impact of Scottish Executive and Scottish Enterprise development targets and incentives on balanced and sustainable development at community level. John Foster is present to give evidence in support of his petition. He is accompanied by Mr Mike Dailly, who is the principal solicitor at Govan Law Centre. I welcome them to the committee—they have about three minutes in which to make an opening presentation, after which we will ask questions and discuss the issue further.

John Foster (Govan Community Council): Our concern is about the decline of Govan, which is one of Glasgow's historic working-class communities. In the past 10 years, Govan's population has declined by 20 per cent—22,000 people now live in Govan, Ibrox and Drumoyne. Of those people, 51 per cent of adults of working age are workless, which is double the rate for Glasgow and more than three and a half times the rate for Scotland. We are a community in serious decline and the question that we want to ask is how we have arrived at the decline and what can be done about it.

In the past 15 years, a large amount of land in Govan has been cleared of social housing, but instead of repopulating the land with affordable

housing—which is what the community council argued for—Glasgow City Council and Govan Initiative Ltd have secured considerable sums of European development funding to build industrial units and offices. That strategy has created in the heart of Govan a vast and expanding industrial estate—known as the Helen Street corridor—which is turning Govan into a poverty-stricken ghetto for what remains of the population. Govan Initiative is working to deliver another 200,000ft² of industrial and commercial accommodation in Govan. That comes at a time when, according to our calculations, half the industrial and commercial units in Govan are lying empty.

Our concern is that local economic development companies have become large commercial landlords and that, because European funding may be reduced from 2006, they are using commercial property as a source of revenue. In effect, the local economic development companies are engaged in a mission of self-fulfilment in which the most visible outcome is the propagation of the organisation. From the beginning, Govan Initiative's stated objective has been

“the relief of poverty by the alleviation of unemployment ... in ... Govan”.

Given the workless figures that I have provided, we feel that Govan Initiative has manifestly failed.

Twenty years ago, the original mission of the local economic development companies was to create jobs for unemployed people in their communities. Mike Dailly and I ask the committee to consider the extent to which that aim is being achieved and the extent to which local economic development companies have built premises without considering the impact on vulnerable communities or the ability of those communities to sustain a critical mass of population, the community services that go with that and the social morale of what were strong and vibrant working-class communities. We argue that those features are key components in the fight against unemployment and poverty.

We invite committee members to come to Govan to see for themselves the dereliction and to find out about the experiences of ordinary people. We ask the committee to find a way in which the problem can be solved. Our argument is that, unless the matter is investigated by a Scottish parliamentary committee, the social inclusion agenda in Scotland will be not fulfilled but thwarted by the mechanisms that have been set up without due consideration being given to the way in which economic incentives such as industrial development and the building of units link with the sustaining of viable, balanced communities that can maintain their historic morale.

The Convener: You have spoken specifically about Govan, but your petition relates to Scottish Executive and Scottish Enterprise targets. Are you aware of instances beyond Govan where the same failings are manifest, and can you give us examples so that we can look beyond the specific circumstances of Govan to the general problem that you perceive with Scottish Enterprise?

John Foster: It would be wrong of us to say that we know any other area in the same detail as we know Govan, but on the other hand we would say that other areas are in a similar position. We have spoken to people in Drumchapel, who say that they have had a similar experience. We note that the Clyde valley plan, which was published in 2000, mentions vulnerable town centres right across the Clyde valley, so we do not think that the problem is specific to Govan. Govan is probably one of the worst examples, but we think that there is a general issue and that is why we have brought it to the Scottish Parliament.

The Convener: That is helpful.

Jackie Baillie (Dumbarton) (Lab): Everybody is trying to arrive at the model for a sustainable community, and I do not think that anyone sitting around this table would argue that some of the building programmes that went on in the 1950s and 1960s created sustainable communities. For me, it is very much a question of the balance between the industrial and the commercial and the kind of housing that is available, and I wonder where the balance has gone wrong. What do you think the ideal balance should be?

I am conscious that a lot of what happens is guided by structure plans and local plans—not just by the Glasgow and Clyde valley plans, but by much more localised plans. What discussions have you had with Glasgow City Council and what input have you had in developing the local plan for Govan?

Mike Dailly (Govan Law Centre): As we see it, the problem with balance is that European funding for a lot of local economic development companies will effectively dry up in 2006. We understand that that situation has resulted in many of those companies having to think about how they can get alternative streams of income to fund what they do. There is an incentive for the companies to become commercial landlords and to build properties, because they can then rent out those properties to offices and businesses, thereby generating an income. Our concern is that that is not part of what the picture should be and that it is causing a distortion in how the local economic development companies are operating.

We have tried to use the planning process. I represented the community council at a planning inquiry and we have tried to engage the

community. For example, Govan Initiative has acquired an area of land called Teucharhill, where it is going to build offices. That area originally contained council housing and we knew that housing associations wanted to build houses there, but unfortunately we lost through the planning process. We are trying to do something about it, but it is extremely difficult.

Linda Fabiani (Central Scotland) (SNP): You said that few local people are employed in the industrial units that are built. I am concerned about that. Are there any initiatives to try to ensure that local people come into employment in the area?

I do not represent Glasgow and I have not lived there for many years, but I remember—more years ago than I care to remember, actually—that there were great hopes for Govan in connection with the community-based housing association movement and the wider initiatives that that brought. I particularly remember the Elderspark workspace initiatives to bring people living in local houses into employment through small business start-ups. What happened to that?

John Foster: The community council fully supports Govan Workspace Ltd and is represented on the board. The project has done a very good job within the limits of its capacity, but it has a relatively small number of units. There are probably more local people employed in those units than are employed in the Govan Initiative units, many of which are not filled.

We support the Govan Workspace project. It would be wrong to say that there are no training schemes that attempt to get young people involved, but the kind of people whom the commercial and industrial firms that come into the area want tend not to be the people we have in Govan. As a result, there is not a link between the population of Govan and the demands for employment.

The other problem is that most of the units are not filled, so employment is not provided. A vast amount of land that could have been used for housing is not available. We mentioned Teucharhill; that land could probably have accommodated a good 300 or 400 families. Moorpark, which is another area that was rezoned for industrial use, previously contained council housing and could easily have taken another 300 or 400 families.

Mike Dailly: Perhaps I could cut to the chase. The problem is that people often say that things are happening in Govan. They are, but there are all sorts of developments down by the Clyde—for example, the BBC and Scottish Television are coming—and, as John Foster said, that does not necessarily result in jobs for people in Govan.

I think that our problem in Govan—I am sure that it is replicated in other parts of the city and elsewhere—is that no affordable housing is being built and, for the reasons that I outlined, the land that is freed up every now and again is being eaten up by the local economic development companies. We will face a bizarre situation. The fact that Glasgow City Council has put a lot of money into the private development of schools has been great for the delivery of new schools, but a problem that came out in our planning inquiry is that the decline in the population means that there will come a time when there will not be sufficient numbers of children in the area to sustain the primary feeder schools. As a result, Govan High School will have a question mark over it. Once the schools start to go in a community, the situation just implodes.

We honestly and sincerely believe that the problem is being exacerbated because the economic development company has a particular agenda. Although that agenda is a matter for the company, the company is not succeeding in linking up with the big picture.

10:15

Linda Fabiani: I have a wee supplementary question, which ties in with something that you said. We often hear criticisms of special initiatives for industrial units, for example, which involve firms relocating from other places and bringing their work forces with them. Do you think that that has happened?

John Foster: I am sure that that has happened. All the studies that have been done on such industrial and commercial developments and on warehousing show that that is largely the case. Not many new jobs are generated.

Linda Fabiani: If the housing stock is not there, people will not choose to live where they happen to move to work.

John Foster: Yes. Mike Dailly's point about the decline of services and the viability of a critical mass of population is very important. When we appealed against the city plan and the rezoning, we had the support of the local churches, the schools and their headmasters and the shops, because they all think that their future is tied up with the viability of the population.

We went round and counted the number of vacant shop units in the old, historic town centre of Govan, which is in Langlands Road and Govan Road. We found that a third of all the shop units—there were about 60 in total—are now derelict and untenanted. It is very difficult for local shopkeepers to keep going in such an environment. As transport and other services decline and shops close, the character of the community becomes

non-viable; people do not want to live there. Even though housing might be available, because the population has declined, the morale of the population deteriorates.

There is a problem with housing and rent costs. One of the problems in Govan is that, with the increase in rents, the only people, by and large, who can afford to live in social housing are those who are on benefit. That means that people who are on a low wage or a reasonable wage will almost certainly move out, with the result that the community is not balanced. That problem has been accumulating for the past 15 years.

Mike Watson (Glasgow Cathcart) (Lab): Good morning. I think that you have brought to us an interesting case. As someone who represents another part of Glasgow—one that is in the south-east of the city—I would like to ask a couple of questions about population. You mentioned that the population of Govan had gone down to 22,000 over the past 10 years. Do you know from what figure it has decreased? In many ways, the Gorbals area has similarities with Govan, and I discovered two figures when I visited Gorbals Initiative on Monday. Fifty years ago, 60,000 people lived in the Gorbals; the figure is now 10,000. Thirty years ago, 45,000 people lived in Castlemilk; today, 18,000 people live there.

In both those areas, the reduction in the population and in the high-density housing that, for many reasons, was not working is seen by the communities as a good thing. In many senses, the way in which the areas have been redesigned—if that is the right word—is positive, although that is not to say that there are no problems. A fall in population is not necessarily bad if it means that the type of housing has changed and that a mix of housing has been developed. Are you saying that that is not the case in Govan? Has there not been the same sort of development that has taken place in the two parts of Glasgow that I mentioned?

John Foster: When Govan was an independent borough in 1912, the population of the area that we are talking about was about 90,000. The population was dense and the area was slum ridden; the situation was pretty terrible. If the population had remained at 30,000, which is what it was in 1980, that would have been a viable level and the housing would have been of relatively low density. The problem is that, now that the population has fallen below that number, all the services are threatened. Several primary schools have closed and others will go. Govan High School is just hanging on.

Mike Dailly: To answer Mike Watson's point, there has been a lot of mixed-tenure new build in Castlemilk and the Gorbals. That is fantastic, but we have not had that sort of development in Govan. Every time that a bit of land has become

free, our community council has tried to ensure that it is kept for residential use but we have been unsuccessful. It is quite difficult to do that when powerful economic development companies are involved. Would that Govan had the developments that have been started in Castlemilk and the Gorbals.

Mike Watson: I take the point that the overriding aim should be to support sustainable communities, but sustainable development is the primary aim of Govan Initiative, which is the local economic development company. Basically, you are saying that Govan Initiative and other local economic development companies have not successfully achieved that aim. I do not know Govan in detail, but I have had some dealings with Govan Initiative outside the main part of Govan, and it has a good reputation. Does Govan Initiative have the wrong targets or is it failing to meet its targets? What is the root of the problem?

Mike Dailly: We are not being critical just for the sake of it. We think that there is a structural issue. As the result of enlargement of the European Union, European structural funds and the various other moneys will all change in 2006. Like many local economic development companies, Govan Initiative now keeps a portfolio of properties as a secure source of funding for the future. Local economic development companies have had to get money into their organisations to deal with that structural issue, but as a result they have missed out on promoting sustainable balanced communities, which is the overriding aim that you mentioned. That is what is happening. A parliamentary committee needs to investigate the issue to get to the root of what has gone wrong.

Mike Watson: Govan is a social inclusion partnership area. I notice that your petition is on the headed notepaper of Govan community council. Is the community council represented on the board of the partnership so that it can make those points to the SIP? Of course, there are other ways of making such representation. Are other community groups represented on the SIP's board?

John Foster: The five community councils elect one representative to the community forum, which in turn has a representative on the board of the social inclusion partnership. I think that the SIP more or less shares our concerns about the rundown of Govan's population and the problems with affordable housing. I am not a member of the SIP board, but I sat in on its meeting on Friday so I know that it will make representations on the lack of provision for more affordable housing in the south-west Glasgow housing plan.

Mike Watson: The social inclusion partnership board could have quite an important role, given the contacts that it has. I sit on the board of the

Castlemilk social inclusion partnership board. Does an MP or MSP sit on the board of the Govan SIP?

Mike Dailly: I think that Gordon Jackson and Mohammed Sarwar are co-opted members.

Mike Watson: Although the petition questions the role of Scottish Enterprise, it seems to me that the decisions about which we need to ask questions are taken at a much more local level, by bodies such as Scottish Enterprise Glasgow and Govan Initiative. It seems to me that the issue is not Glasgow-wide, but specific to Govan. That is what makes it so serious.

Helen Eadie (Dunfermline East) (Lab): I note from our briefing papers that the Scottish Executive has a target of building 18,000 new and refurbished homes for low-cost rent and purchase over three years. Our notes also suggest that the structure plan and the local plan should safeguard town centres. From my experience as a member of planning committees, I know that the local plan is always key in decisions on planning permissions. What stage is your local plan at? If an area is halfway through the local plan process, that can have a bearing on what planning permissions are granted.

Mike Dailly: A city plan has been approved in Glasgow. Govan community council and Govan Law Centre tried to have an input to the plan, but without much success. In some respects, Govan has been—to use emotive language—sacrificed. We are a core economic development area in Glasgow and we are regarded as important to the whole of Glasgow. As a result, much of Govan has become industrial and, if members come to the area, they will see that huge chunks of it are an industrial wasteland. That has prevented the community from being sustainable. Of course business and sustainable development have to be encouraged but, as Mike Watson says, that has to be done in a joined-up fashion so that the community can be sustainable. That has not happened in Govan.

John Foster: In February, we went to see the planning department about the local plan. The department admitted that it had done virtually no work on it because of staff shortages. A member of staff had just been appointed and the department hoped to have a draft outline of the plan ready for discussion by the end of this year. The department had visited the old central Govan area and been quite shocked by the degree of dereliction.

A problem arises with the 18,000 houses that are to be built, because very little land is left in Govan on which to build them. The south-west area housing plan, which was discussed at a meeting of the social inclusion partnership on

Friday, shows that only 12 housing units will be built in Govan and Drumoyne and only slightly more will be built in the adjacent area of Ibrox. The plan offers very little hope to our area.

Helen Eadie: When you visited the planning department, were you told what stage the local plan had reached? Is it at the end of its 10 years, is it halfway through, or is it right at the beginning?

John Foster: In the central Govan area, a new process will start. As I said, it is hoped that a discussion document will be ready this year—probably early in the autumn.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning, gentlemen. As we have heard, the problem in some other areas is probably just as severe as it is in Govan. How do you relate your current problem to the industrial success that Govan enjoyed during the past century? The structure of the area has changed and efforts are being made to introduce a new culture into what was a huge industrial area. Difficulties must arise for anybody who is trying to develop a new economy.

Mike Dailly: As John Foster suggested, when new offices come to Govan, new jobs do not result for local people. Balance is important. Yes, we need industrial sites—and thank goodness we still have the shipyards—but the balance has tipped too far in favour of industrial development. We sincerely believe that Govan looks as though it is no longer a sustainable community.

When social problems develop and people want to move out of an area, they can do so only if they have the financial wherewithal. As the years go by, the people who are left are those on benefits. All sorts of social problems can develop when there is not a balanced community. It would be better for Glasgow—and good for business and the community—if we could create a sustainable and balanced community in Govan.

John Farquhar Munro: We seem to have a chicken-and-egg situation. What do we do first? Do we provide the industrial units, or do we provide the accommodation? Each is dependent on the other.

You said that things should be done in a joined-up fashion. If a company is developing industrial units in a particular area, perhaps there should be a commitment to provide social housing as well, so that the whole development is integrated.

Mike Dailly: Absolutely. It is planned that the multistoreys that are owned by the Glasgow Housing Association will come down. Many of them are in Ibrox. We understand that 500 families will be displaced but, because multistoreys are vertical, space will be created for only 75 new houses. As a result, there will be yet another

reduction in the population. We do not want people to leave Govan; we want them to come to Govan. The solution is to build affordable mixed-tenure housing—private properties, housing association properties, social rented properties and so on. If that were to happen, we could bring people back to Govan, which would be good for everyone.

10:30

John Farquhar Munro: However, before that can happen, the budget that is allocated for industrial development would have to include money for the provision of housing. I would like that possibility to be promoted, because the two issues are not separate.

Mike Dailly: That sounds great.

The Convener: Mike Watson suggested that we deal with this issue as one that relates specifically to Govan and ask questions about the SIP's involvement.

Mike Watson: I was not talking about the SIP, although I have no objection to getting in touch with it. I think that, rather than following up the issue in a national context with the Scottish Executive and Scottish Enterprise, we should consider the situation in Glasgow. We should ask Scottish Enterprise Glasgow and Govan Initiative for their comments on the important issue that has been raised.

Linda Fabiani: That is absolutely right. However, we should write to the Executive because of the wider issues relating to the cities review that was conducted and economic development in general. Further, as housing is crucial to the Govan situation, we should also write to Communities Scotland and Glasgow City Council to find out what is planned for Govan. Only if a joined-up approach is taken will progress be made, so we need to have all the information that will allow us to join up the issues. We need to take a multipronged approach to information gathering in this case.

The Convener: As I said at the outset, we have to deal with this issue in the context of the Scottish Executive and Scottish Enterprise. Although the specific case of Govan raises certain issues, the petition asks for the Scottish Executive and Scottish Enterprise to be assessed in relation to the effect that they are having on Govan. That does not mean that we cannot ask other agencies specific questions about the situation in Govan, but we have to at least include the national bodies in our questioning.

Jackie Baillie: Rather than writing to everyone, we should try to obtain a local view. We should write to Margaret Curran, not least because of her

responsibilities for planning, regeneration and housing, because she is fronting the cities review. We should also write to Jim Wallace because the local economic development companies will be operating to targets that the Scottish Executive has approved or signed off. We do not want different arms of the Scottish Executive working against each other when they should be working in concert.

Finally, I encourage the petitioners to make use of the fact that the local plan process is under way in Govan.

The Convener: Are members happy with that and with Mike Watson's recommendation that we also consider the specific situation in Govan?

Members indicated agreement.

The Convener: The information that we get back from the Executive might be helpful in terms of our understanding of the situation in Govan, but we must focus on the generality of the situation.

Sewage Sludge (PE749)

The Convener: Petition PE749 is from Geoffrey Kolbe, on behalf of Newcastleton and district community council. The petition calls on the Scottish Parliament to seek a moratorium on the spreading of sewage sludge pending a full inquiry into its safety by a parliamentary committee; and, depending on the outcome of that inquiry, as a minimum, to initiate legislation at the earliest opportunity to discontinue the current exemptions for spreading sewage sludge and to ensure that it is subject to planning control, including a public local inquiry.

Geoffrey Kolbe is present to give evidence in support of his petition, accompanied by Jackie Brown and Beatrice Scott.

Geoffrey Kolbe (Newcastleton and District Community Council): In October, large lorries started to pass through the village of Newcastleton laden with something that stank. It did not take us long to determine that the foul-smelling substance was sewage sludge, which was being taken to a 50-hectare clear-felled forest site about 6 miles from the village. At that site, the sludge was being mixed in with the topsoil as a fertiliser to promote the growth of tree seedlings that were to be planted on the site.

In the United Kingdom, sewage sludge dumping operations are governed by the Waste Management Licensing Regulations 1994, as amended, schedule 3 to which details activities that are exempt from the requirement to obtain a waste management licence. An exemption is allowed provided that the waste is disposed of without endangering human health and without using processes or methods that could harm the

environment. The operator must register with the appropriate regulatory authority before operations begin. In Scotland, the appropriate authority is the Scottish Environment Protection Agency. There is no requirement other than to make a statement to SEPA that the provisions will be met and there is no requirement for SEPA to show that the provisions are being met. If the provisions are not being met, it is up to a third party to complain to SEPA, at which point SEPA is obliged to investigate.

No planning permission is required for the dumping, because the activity is classed as an exercise in topsoil improvement and therefore as a forestry operation, which is exempt under planning legislation. However, there is a world of difference between improving topsoil for sitka spruce trees, which have a root ball that is around 30cm deep, and burying sewage sludge to a depth of up to 2m. That is blatant waste disposal under another name. There is also no requirement to consult the local community.

By April, when operations ceased for the summer, some 20,000 tonnes of sludge had been dumped on the site. We have no idea what the short-term or long-term effects of the dumping will be. If the people who live nearby find that heavy metals and pathogens are seeping into the groundwater and coming out in their springs and wells, it will be too late to complain. That water will be contaminated for decades.

The petition does not represent a nimby complaint. We all produce sewage and we acknowledge that it must be dealt with somehow. However, we should have the right to be consulted about an activity that means that we must put up with the smell and the heavy lorries on our narrow roads, where the constant flow of timber lorries already impedes traffic and damages the road surface. We should be consulted about an activity that might put off tourists from coming to our shops and hotels and that might contaminate our water with sewage sludge. We should also have the right to be reassured that a proper risk assessment has been carried out before dumping operations start.

The petition was signed by about 1,300 people from a community of about 1,300 people. That shows the strength of feeling about the matter. We also have the solid support of Scottish Borders Council, which is also concerned about the uncontrolled dumping of sewage sludge.

The Convener: Euan Robson indicated an interest in the petition, so he may want to comment before I invite members to ask questions.

Euan Robson (Roxburgh and Berwickshire) (LD): I am here to back my constituents' concerns

about the matter. As Geoffrey Kolbe eloquently said, the first that local people knew about the dumping was when additional lorries started passing through Newcastleton at different times of day. It is important to emphasise that thousands of tonnes of waste have been dumped, not just a few lorry-loads. Constituents immediately asked me what was happening and when they discovered that the lorries contained sewage sludge they asked what was in that material and whether it was safe. People asked, "Is the drinking water safe? Is my family safe? How long will this continue?" Constituents expressed anger that they had known nothing about the activity before it started. If there had been consultation, explanation or detailed debate, members of the local community would at least have known what was happening.

As the dumping continued, representations were made to the relevant authorities and the story emerged piece by piece. That is an unfortunate situation for any local community to face. The situation also presented difficulties for the local authority, which was suddenly faced with a number of complaints and inquiries and possibly presented difficulties for other authorities such as SEPA, which was confronted with a series of representations about a matter of which it was not aware, as I understand it.

I will add no more, as I am conscious of the committee's time. I am grateful for having had the opportunity to say a few words on behalf of my constituents in support of their petition, which raises issues that this committee and other parliamentary committees need to air.

Linda Fabiani: I will ask some questions for clarification because, although we hear much about sewage sludge, I am not absolutely sure what sewage sludge includes—you do not have to go into too much detail on that. We hear about treated and untreated sewage sludge. What is being spread in your area? If it is treated sewage sludge, how is it treated? Do you know of any medical tests that are undertaken as part of that treatment?

Geoffrey Kolbe: The sewage sludge is about 15 per cent human waste. The rest comes from run-off from roads and waste that is allowed to be put into the sewerage system, such as waste from paper mills. The sludge is treated by sewage farms to remove some of the water and to suppress the pathogens. It is also laced with potassium permanganate to reduce the odour, although the success of that varies. The matter has the form of a sort of wet peat and it is put into the ground. Most of it comes from sewage farms from towns within a 50-mile radius of Newcastleton, but some comes from further afield.

Linda Fabiani: I thank you for that good clarification. The notes that we have been given show that the Public Petitions Committee discussed the subject before the Parliament was re-elected last year and that the Transport and the Environment Committee discussed it, which shows that a great concern exists. Has this committee been told how far the Executive has gone with examining the subject?

The Convener: I am not sure. While Helen Eadie asks her questions, I will check that with the clerks.

Helen Eadie: I was a member of the Public Petitions Committee when we examined the Blairingone and Saline Action Group's petition, so I remember the discussions well. My question is for Euan Robson. I note from previous discussions that the Minister for Environment and Rural Development banned the spreading of untreated blood and guts on land from 31 March 2003. What representations have you made to the Scottish Executive on the issue?

Euan Robson: Several discussions have taken place and I have talked to the relevant minister. The initial concentration has had to be on finding out what was in the material and dealing with SEPA, which appeared to be the relevant authority for investigations. Discussions with SEPA continue, because one concern is that although we have had only one example, those who spread the waste may return. The community's concern is about whether such an incident will occur in the future without warning. It is important that the relevant parliamentary committees, which have undertaken much work on the matter, should make their views plain. Perhaps an update should be sought from the Executive. At the same time, I will continue to discuss with ministers what is happening. The subject is of interest to other communities and not just to Newcastleton.

Helen Eadie: How does the ban that was introduced square with the continuation of the practice? What are ministers doing to enforce the ban?

Euan Robson: Forgive me—you will have to put those questions to the relevant department. I understand that that ban related only to untreated waste of a particular type. I recall that that was a discrete matter that is unrelated to sewage disposal. I agree that that is a matter for clarification.

The Convener: The answer to Linda Fabiani's question is that no response has been received. The Executive has not responded to the report that was drawn up in respect of the issue that Euan Robson has just mentioned, which was a very specific issue to do with the use of untreated waste products at Blairingone.

10:45

Helen Eadie: Do you mean a response from Ross Finnie, the Minister for Environment and Rural Development?

The Convener: Yes. We have not received a response.

Linda Fabiani: So there has been no response for more than a year, even though two committees expressed concerns about semi-treated and untreated sewage.

The Convener: I think that the issue was dealt with and the practice was ruled out, but you asked whether there had been a response to us.

Linda Fabiani: Yes. The Public Petitions Committee report was specifically about untreated or semi-treated sewage. There has been no response about treated sewage.

The Convener: We have not received a response in that regard. I hope that that helps.

Phil Gallie (South of Scotland) (Con): I have not been a substitute on the Public Petitions Committee for some time, but I was on the committee when the Blairingone petition was received. What the petition says is near to comments that were made in Blairingone, which disturbs me. At the time, one of the key issues that the reporter—Dorothy-Grace Elder—determined was that SEPA did not appear to be on top of the job. I would like to know from the petitioners about what contact they have had from SEPA and how co-operative it has been with them in addressing their concerns.

Geoffrey Kolbe: We wrote several letters to SEPA that asked about the situation and we were disappointed with the legalistic letter that it wrote back, which stated the laws under which it functions and how operations were being conducted according to those laws. It did not seem to be particularly sensitive to our concerns, so I wrote another letter to it that stated so. In response, SEPA more or less restated its original letter. We have been rather disappointed by SEPA's response. It appears to wish to work only according to its legal remit and no more. It is not prepared to address our local concerns.

Phil Gallie: I share your disappointment. The committee spent a considerable amount of time on the report, as did the reporter, Dorothy-Grace Elder, who did a tremendous amount of work on it. It seems to me that the agency has forgotten about its shortcomings. I hope that the committee will address the issue again and will remind SEPA of its commitments.

I do not know about the provision of water in the area. Where does your water supply come from?

Geoffrey Kolbe: All the water for the village and the local farms comes from springs in the hillsides that are next to the valley.

Phil Gallie: I suspected that. A European directive might come out that will specifically consider the contamination of underground water supplies and the committee might want to take that on board. Acting after the stable door is open is pointless and there seems to be an opportunity to jump on top of the situation now, before the European directive comes out. If the material in question is going in at the depth that you have suggested, it might well end up contaminating underground water supplies.

Geoffrey Kolbe: There have been no hydrogeological surveys to determine whether it will do so, although we think that there should have been such surveys.

Carolyn Leckie (Central Scotland) (SSP): The petition has two arms. You want a parliamentary committee inquiry, but you want a moratorium in the meantime. Given the issues that you have raised, that would seem to be necessary. However, I want to clarify matters and to home in again on Euan Robson, unfortunately.

Euan Robson is a member of the Executive. Has the issue of a moratorium been specifically raised in the representations that you have made in the Executive? Do you know what the Executive's view is in respect of a moratorium? We cannot afford to wait for another committee inquiry on the issue and on the risks from sludge that keeps being dumped. It is a matter of acting now and investigating later what the Executive's position is. Much as the Public Petitions Committee can be supportive of the petition, I suspect that Euan Robson, as a member of the Executive, would have a wee bit more influence in addressing its concerns.

Euan Robson: The committee will understand that I am here in my capacity as a constituency MSP and that I cannot speak for the Environment and Rural Affairs Department. The issues are ones that the committee can, quite rightly, put to that department in the light of experience and on the basis of what previous committees have said in the past. There are wide concerns about the spreading of sewage sludge throughout Scotland and the newspapers have been full of such incidents. I am sure that the appropriate department in the Executive will look in detail at all this. However, I am not in a position to say to what extent that will happen or what policies ministers might choose to adopt. That is a matter for the committee to pursue directly with the Executive.

Carolyn Leckie: I am not convinced that very much detail is necessary to form an opinion that the spreading has to stop. I am not an expert on

rural affairs or the environment, but anybody with an ounce of common sense would think it a bad idea to spread sewage sludge over a field that has water supplies running through it. Action is required.

The Convener: I think that a couple of assumptions are being made: first, that SEPA knows what is going into the ground and, secondly, that the Executive knows that the regulations are being breached. It is our responsibility to try to find out whether that is the case and not to jump to conclusions. It may well be that the community does not know and has not received satisfactory answers to the questions that it has asked. For us to assume that the Executive and SEPA know is going a bit too far. It is our responsibility to investigate that without assuming that SEPA and the Executive are in the wrong.

Mike Watson: Under the regulations, is there not an obligation for SEPA to be informed? That is not a great safeguard, but we can assume that SEPA must know about the spreading of the sludge. From the reply that the petitioners received, I presume that SEPA does not see it as a great problem and I would like SEPA to explain to us why it does not see it as a great problem.

The Convener: That is the point that I am making. SEPA may not believe that there is a problem. We could ask what it knows about the subject, what regulations are in operation and what it knows about the stuff that is being dumped. For us to assume, without that detailed information, that there is a problem and that there are health issues is to go a step too far.

Jackie Baillie: It strikes me that, notwithstanding the specific circumstances of the case before us, there is another issue to be addressed. It is as if there is a limited—almost loose—set of requirements on SEPA that stops at notification and relies on communities being proactive in pursuing the matter. I wonder whether that is an issue that we would want to tease out with SEPA and the Executive.

Linda Fabiani: Sorry for interrupting, but I have missed a bit. Are we on recommendations now?

The Convener: Yes.

Linda Fabiani: All right. I think that there is a big issue about people waking up in the morning to discover lorries full of stuff trundling through their villages and going nearby. There is an issue about consulting local communities that we should look at in gathering any information.

Helen Eadie: Some of the questions that have been put this morning have been answered by the briefing notes that we have received. The regulations are quite clear in the briefing notes; what is not clear is the extent of SEPA's powers,

the criteria according to which SEPA would get involved and the circumstances under which that would happen. At the heart of all this seems to be the fact that, although the use of one type of sludge has been banned, the use of treated sludge is the key. If the legislation does not cover treated sludge, not only SEPA's regulations but the legislation needs to be changed.

I agree with other members that it is totally inappropriate for treated sludge to be used in that way. I have been to visit a sewage treatment plant, and I have seen the pellets and how they are sprayed. We need the legislation to be changed for that whole practice. I do not think that it is as simple as having regulations; legislation should be involved.

The Convener: That might well be the case. We should write to the Scottish Executive and SEPA and ask them to specify their knowledge of the issue and of the relevant regulations. That would be a starting point.

Phil Gallie: The issue goes a little bit further than regulation. We know that SEPA has control over waste water and specifically water quality. I do not know how far its level of responsibility would apply to this particular problem compared to that of Scottish Water. Indeed, it might be desirable for Scottish Water to be involved in the matter.

My real concern is that an agency such as SEPA should respond to people with worries in a reasonable way, and should try to address them, rather than simply presenting a whole pile of legal reasons why it cannot do anything. SEPA is duty bound to try to assist people and to explain things. On that basis, we should go further than simply asking SEPA about the regulations.

The Convener: I do not mind doing that. We can ask specific questions in that regard. SEPA is the first point of contact on this matter, and it is a matter of identifying its knowledge of the situation and establishing what it is working to. I do not think that we are at odds on that. You have raised some pertinent points, Phil.

Helen Eadie: Are we going to ask the Executive why we have not had a response to our predecessor committee's report on this matter?

The Convener: I have no difficulty with our asking that question.

Is everyone happy that we progress the matter in that way?

Members indicated agreement.

Phil Gallie: And should we contact Scottish Water, too?

The Convener: Am I correct in assuming that the committee has no difficulty with that? There is no harm in asking Scottish Water questions.

Members indicated agreement.

The Convener: I thank the petitioners for bringing their petition this morning. We will let you know what the responses to it are.

School Closures (Revised Guidance) (PE753)

The Convener: Our next petition is PE753, on rural school closures, by Christine Grahame MSP. It calls on the Parliament to urge the Executive to reopen without delay discussions with the Convention of Scottish Local Authorities on proposed school closures; further, to introduce a presumption against the closure of rural schools; and, pending the issue of new guidance, to call in any decision to close a rural school, whether or not that is required under current legislation and guidance.

The committee has considered four other petitions on the topic of school closures and is currently awaiting a reply from the Minister for Education and Young People in response to the issues raised in PE725, which called for the restoration of a presumption against the closure of rural schools, and in PE701, which called for a review of the consultation arrangements for school closures and mergers, which is also still under consideration.

During an evidence-taking session on school closures at the Education Committee's meeting of 26 May 2004, the Minister for Education and Young People stated that his officials were preparing draft material on the process that local authorities should follow and on the factors that they need to weigh up. That material is to be issued in September 2004. The Education Committee asked the minister to let it see a draft of the revised guidance. Christine Grahame is with us this morning, and I invite her to add anything that she wishes to say in support of her petition.

Christine Grahame (South of Scotland) (SNP): Thank you. It is terribly sad that we are in this position. When I was looking back through the papers on the matter, I realised that I was on the Public Petitions Committee in 2000 and that the same issue of school closures was being raised then. I asked a petitioner:

"What has been the impact of previous closures on the communities served by those schools?"

The answer that was given was:

"The effect on the communities before and after closure is a feeling of helplessness. People felt that they could do nothing before the closures and after them. There are no

means of resistance once the council has made up its mind."—[*Official Report, Public Petitions Committee*, 25 April 2000; c 345-46.]

That is exactly how many people feel, not just in the Borders but in other parts of Scotland. They feel that they are taking part in a paper consultation process. Part of the petition calls for a moratorium, because I have heard today that of the 13 schools in the Borders that are up for closure, three will close their doors tomorrow, one will close its doors next year and the rest will be subject to decisions between now and the autumn. Stable doors and horses bolting have been mentioned, and that is exactly the situation here.

The issue is not new; it dates back four years. At that time, Jamie Stone produced a report on the general issue of school closures for the Education, Culture and Sport Committee. Time after time, issues have been raised at various committees.

11:00

At my members' business debate on rural school closures, I raised the issue of guidance to local authorities. Unfortunately, the minister has left, although I know that he was not here to discuss this matter, but in that debate he said

"the Executive did not postpone the production of guidelines."—[*Official Report*, 25 March 2004; c 7194.]

That is dancing on the head of a pin. In a letter of 12 March 2003 to the clerk to the Education, Culture and Sport Committee, COSLA said that on 19 December 2002 representatives of the Scottish Executive Education Department met officials from COSLA, including the two directors of education who have acted as COSLA advisers and who have been leading work on the draft code of practice on school rationalisation. After that, the matter was parked until the document "Building our Future: Scotland's School Estate" was issued earlier this year. That is what has been happening. The current guidelines go back to 1981 and 1988, which is simply not good enough.

I was interested to hear the evidence from Govan community council about what happens to communities when they lose critical mass, along with primary and secondary schools. That is what we are talking about.

I know that the committee is terribly busy, so I will make only one more point. Highland Council, which is in no way political, has a policy of not closing rural schools unless a community requests it. Even when a school is empty and has no pupils, the council mothballs it for two years to give the community a chance to get people back into the area. If that does not happen and the school cannot be reopened, the council offers the property to the community or uses it for social housing. Highland Council seems to have worked

out a solution to the problem that involves proper consultation. Is it not wrong that there should be postcode choice? If people live in the Borders or elsewhere, they have no choice, although somehow Highland Council has managed to offer choice.

The fact that we are discussing this issue four years down the road, after goodness knows how many good rural schools have closed, is simply wrong. I know that the Public Petitions Committee can become frustrated when it does good things that somehow go into the ether, with the result that nothing happens. This is one such example. I was astonished to find that I raised the issue in 2000. Four years later, I am still here and the issue is still the same.

The Convener: I recollect that the previous petitions that we have received on this issue highlighted the fact that COSLA was proposing to issue guidelines but delayed doing so, because it was waiting for the Executive to issue its own. According to our papers, the minister appears to be indicating that those guidelines will be published in September 2004, but he has not yet responded to our request for him to tell us when the information will be issued and why COSLA had to wait. We are awaiting an outcome to the previous petitions. Christine Grahame made the point that the matter has been on the agenda for some time. As I said earlier, we have received four other petitions that relate specifically to it. We may be able to link this petition to the others, but we should also ask the minister to respond to us, because we have asked a specific question and are still awaiting an answer.

Helen Eadie: I was interested to hear about the example of Highland Council, which seems to be taking the kind of approach that I would like to see taken elsewhere in Scotland. Has Christine Grahame met Scottish Borders Council and put that example to it? Has she put it to the Scottish Executive Minister for Education and Young People in writing?

Christine Grahame: I have only recently managed to find out exactly how Highland Council manages to take that approach, while continuing to balance its books and to build schools. I am contacting the leader of Scottish Borders Council and the Scottish Executive Education Department to put the example of Highland Council to them. However, I do not think that they will listen, as they have already made up their mind about the direction in which they are going.

That is why the petition seeks to play for time by asking the Executive to call in all school closures for now or even to call a moratorium until we have received the guidance and councils are able to see what other councils are doing. However, I suspect that, if such alternatives were offered to

councils now, they would simply say, "No, the schools have already closed." Indeed, three schools are closing their doors tomorrow.

It has been argued that there is only a small number of pupils in these schools; however, I should point out that in the Highlands schools are kept open even if only one or two pupils attend them. That attendance is then built on. Scottish Borders Council rejected a parent's request to transfer their child to Glendouglas school, which was threatened with closure, to build up the roll. I challenged the council's decision by pointing out that, notwithstanding the fact that the school had been earmarked for closure, parents had the right to choose. As a result, the council backed off.

It seems that this matter involves an agenda that is unfair to parents. The people involved are not prepared to open their minds. One way out would be for local authorities to have good, structured guidance that sets out what they can do and which highlights best practice in other areas such as the Highlands. I will try, but I do not think for one minute that I will succeed. Perhaps I am wrong.

Mike Watson: It is not without some irony that I note that the Minister for Education and Young People is the former leader of Highland Council. It would be interesting to find out whether he was in that position when the council adopted its policy. In his response to the Education Committee, he said that he would issue guidance in September. Of course, as Christine Grahame has made clear, that is no use to the two schools that closed this week. Clearly the matter is urgent. It is not appropriate for each council to make its own policy, although Highland Council's approach sets a benchmark that others should meet.

My question relates to Scottish Borders Council, about which I know very little. I remember that two or three years ago it faced a serious crisis that was related to education. I wonder if the closures are cost-saving measures that are a knock-on effect of those troubles.

Christine Grahame: As someone on a TV programme once said, "You could say that; I couldn't possibly comment." I think that you are right and that those troubles might very well be part of the reason for the closures. Scottish Borders Council overspent by £3.5 million to £4 million and experienced great financial difficulties. However, that is certainly no excuse for doing something that will change the structure of Borders communities forever. Once the local school goes, it goes; it does not reopen. I know that for a fact, because I lived in a village where a school closed and then became a youth hostel. After that happened, the focus of the whole village moved elsewhere. A school is the heart of a community. In fact, the Executive says as much in

its document "Building our Future". In that respect, the heart is being ripped out of these communities.

As I have said, I think that your suggestion might be right; and I am pleased that you think that you might be right as well.

Linda Fabiani: You can tell that Christine Grahame is a lawyer.

Mike Watson: I was concerned when she said at the start of her response that she could not possibly comment on the matter.

Christine Grahame: You knew that I would.

Mike Watson: Now that she has commented, I have no further questions.

Carolyn Leckie: I agree with many of Mike Watson's points. I have not read the full *Official Report* of the Education Committee's meeting, but our papers contain an excerpt from the Minister for Education and Young People's evidence to the committee. What concerns me about what he said is what he did not say. For example, he said:

"I believe that the Executive can do more to set out its expectations of the process"—[*Official Report, Education Committee*, 26 May 2004; c 1445.]

I am a bit worried that that will simply involve writing down the same thing in different language between the covers of a glossy book.

We need to home in on the specific question whether there is a presumption against school closures in rural areas as well as chase up responses to our previous questions about COSLA's delay in going ahead with its plans and so on. If we have not asked the question before, we need to ask specifically about the attitude towards the presumption against school closures. After all, we must accelerate consideration of that issue.

Linda Fabiani: The first part of PE753 refers to guidelines, which affect not just rural schools but all schools. We have already considered four petitions on this issue. The one that springs to mind related to school closures in my own area of South Lanarkshire and, in particular, East Kilbride. People feel a real sense of anger and unhappiness that the authorities are riding roughshod over them and because they have nowhere to turn to. COSLA is saying that it did not bother to produce guidelines because the Executive said that it would issue them and the Executive has said that it is waiting for COSLA.

Christine Grahame has now pointed out that, four years down the line, we are no further forward. However, the councils and the Executive are further forward, because a heck of a lot of schools have been closed during the four years, while the Executive and COSLA have been shilly-shallying around. They might well have wanted to

get their political philosophies through—perhaps it is not for me to say that, although others might—but there is a big issue about communities and committees of the Parliament being treated with contempt due to all that shilly-shallying about and trying to blame other people while nothing is happening. I would like the committee to say something very strong about the fact that we have been knocked about for long enough. The Executive has been talking about the guidelines for ages and it should quit talking and let us see some action. We have been pussyfooting around for long enough.

John Farquhar Munro: I have a comment on Christine Grahame's remarks about provision in the Highland Council area. I am delighted that its approach finds favour with Christine and with several committee members. I note that we are proposing to link the petition with some of those that have gone through before. I suggest that because Highland Council's policy seems to arrive at a satisfactory solution, we might suggest that we consider adopting that as a yardstick method of dealing with the problem of school closures in the rest of the country.

The Convener: I do not think that there is any reason why we cannot ask for views on Highland Council's policy and on whether that is the type of initiative that the Executive wants. I do not see any harm in asking that specific question and getting an answer to it. However, what we would like is an answer per se. We have not had the answer that we sought after the previous petition. However we approach the issue, we start from the point that it is another petition on an issue to which the Executive has yet to respond. That is the major concern. From there, we will be able to ask the specific questions that members have outlined about where we are and where we are going on the issue. Are members happy with that?

Members indicated agreement.

Scottish Public Services Ombudsman (PE745)

The Convener: Our next petition is PE745 by Yogi Dutta, calling for the Parliament to urge the Executive to amend the Scottish Public Services Ombudsman Act 2002 to incorporate a range of measures in relation to the accountability and responsibilities of the ombudsman, and to produce guidance notes describing the procedure for investigating a complaint. At our meeting on 5 November 2002, the committee agreed to take no further action on the petitioner's earlier petition, PE525, which called for the Scottish Public Services Ombudsman Act 2002 to be amended to incorporate a range of measures to deal with grievances against Scottish local authorities on the basis of a response from the Executive.

The Parliament nominates the SPSO and has the power to vote to remove them. In terms of accountability, the SPSO is required to send reports on their investigations to Scottish ministers and Parliament, and to lay an annual report for consideration by Parliament. As regards guidance notes, the 2002 act does not prescribe the information to be passed to the complainant nor much detail about the procedures for formal investigations. Although there is no statutory provision for issuing guidance, the Executive has produced guidance on the interpretation of the 2002 act.

Mike Watson: Two points seem to come out of this petition, although obviously we cannot go into details of the individual cases that Mr Dutta raises. The first point is that he claims that the ombudsman failed to give reasons for her decision, which she appears to be obliged to do. The other point is that it is alleged that the ombudsman failed to allow Mr Dutta the benefit of an appeal, which again it appears that she is obliged to do. It seems strange that that did not happen and I would like to know why that was. Obviously the ombudsman is a new post, although it brings together other posts that existed previously. It seems that questions need to be asked before the guidance notes are published.

Helen Eadie: Perhaps that is why we should write to the Scottish public services ombudsman to ask for her comments on the issues that have been raised. Certainly, it would be fair to ask whether she intends to produce service standards, for this case or any other, and details of what they might entail, and guidance notes on the procedures. A general issue is involved and I think that, as parliamentarians, we would all want to be satisfied that guidance is in place.

11:15

Carolyn Leckie: I am concerned about many aspects of the petition. I have a lot of sympathy for the circumstances that led to its presentation. I agree with Mike Watson that there is no point in having an appeals procedure to a body that is non-transparent, apparently ineffective and unchallengeable in how it conducts matters, including not providing access to evidence that it has assessed that would allow someone to work out whether the body had made a correct decision.

Big questions arise from the petition, not only about guidelines, but about why we do not have an appeals process with teeth that every citizen can access. What strikes me about the petition is that it could involve legal action, but only if somebody had money to access it. There must be an effective process that meets the requirements of natural justice. I know that there have been

similar previous petitions, but I would like us to pursue PE745 rigorously.

The Convener: Shall we write to the Scottish public services ombudsman, as Helen Eadie suggested, to try to clarify the position, so that we can address the issue further?

Phil Gallie: The Scottish Public Services Ombudsman Act 2002 is a recent act of the Scottish Parliament. No doubt there was substantial debate around the setting-up of the conditions for the ombudsman. It might be worth while—perhaps for one of the committee clerks—to go back and have a look through the debate on the passing of the bill to determine what was said and to see whether there were reasons why the Parliament, as opposed to the Executive, gave the responsibilities that it did.

Jackie Baillie: I do not particularly wish to take part in the decision on the petition because, although it is not a registrable interest, I worked for East Dunbartonshire Council before I became an MSP and so, from my perspective, it would be safer all round if I did not comment on the petition.

Helen Eadie: We must remind ourselves that the public services ombudsman considers only the process and not the substance of a complaint. The people whom I represent often struggle to come to grips with that difficult distinction. They seek someone who will support their arguments for justice in their particular cause as opposed to someone who will identify whether the process was flawed. I suspect that Carolyn Leckie was talking about the more fundamental issue of the substance of the complaint rather than the process.

Carolyn Leckie: I disagree with not being able to pursue an appeal to the ombudsman on the substance of a complaint. However, I was not referring to such grounds. The petitioner is talking about an accusation of maladministration and about being unable to question whether the ombudsman assessed the evidence of maladministration that was presented or to find out the ombudsman's justification for accepting the council's response to the accusation. The petitioner suggests that the accusation of maladministration was not even investigated, so the petition is about the process. It is right to say that the petition does not go far enough for me. However, the petitioner is obviously dissatisfied with how the ombudsman dealt with the allegations about the process.

The Convener: Shall we write to the ombudsman asking for her views on those points?

Members indicated agreement.

Antisocial Behaviour (PE750)

The Convener: Petition PE750, in the name of Paul McKenzie, calls on the Parliament to urge the Executive to address antisocial behaviour by introducing a number of measures, including establishing a separate police force to deal solely with such issues, forming a support group for victims and introducing mandatory neighbourhood watch schemes. Before being formally lodged, the petition was hosted on the e-petition site between 18 February and 1 June 2004. The petition gathered 241 signatures online and it stimulated 64 comments via the discussion forum.

The petitioner also proposes that there should be undercover antisocial behaviour officers, professional witnesses and more closed-circuit television. However, the Executive has provided funding to local authorities to extend community warden schemes, has set up specialist antisocial behaviour teams to which police officers have been seconded and has established separate schemes to support victims of antisocial behaviour. It has also invested £12.3 million in bringing online more than 2,000 CCTV cameras throughout Scotland.

The petitioner suggests that the Executive should also create a database of all telephone calls to the police and that anonymity should stop being afforded to those who cause antisocial behaviour. However, forthcoming guidance on the local strategies that will be required under the Antisocial Behaviour etc (Scotland) Bill will emphasise the importance of recording telephone calls on antisocial behaviour. The bill will also create a presumption that the identity of a person who is the subject of an antisocial behaviour order can be made public.

In addition, the petitioner seeks legislation to prevent people who cause antisocial behaviour from living in dense pockets in neighbourhoods. The Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 make provisions to ensure that families who perpetrate antisocial behaviour are given housing support services to enable them to sustain tenancies.

Do members have any views?

Linda Fabiani: The Parliament passed the Antisocial Behaviour etc (Scotland) Bill just last week, so the petition need not go any further.

The Convener: Do members accept that?

Members indicated agreement.

Scottish Legal Aid Board (PE751)

The Convener: Petition PE751, which is from Ronald Mason, calls on the Parliament to initiate an inquiry into the procedures and practices of the

Scottish Legal Aid Board. It also seeks an amendment to the rules that govern the eligibility for legal aid so that the disabled are given an automatic right to it. Before being formally lodged for consideration by the committee, the petition was hosted on the e-petition site from 16 April to 20 May 2004 and gathered five signatures in total.

Information on eligibility for legal aid is set out in the leaflet "Do I qualify financially for advice and assistance or civil legal aid?" The leaflet is valid for the period April 2004 to April 2005.

On 18 February 2003, following recommendations in the report of a Justice 1 Committee inquiry, the Executive announced a package of reforms to the civil legal aid system. The reforms focused on streamlining the system, ensuring quality service for the client, increasing the fees that are paid for legal aid work and delivering more efficient administration. Two years after implementation, the impact of the reforms will be evaluated in a formal review that will be carried out by the Executive, SLAB and the Law Society of Scotland.

Do members have any views on the petition?

Helen Eadie: I suggest that we write to the Executive, the Scottish Legal Aid Board, the Law Society of Scotland and the Disability Rights Commission to seek their views on the issues that the petition raises. We should perhaps ask them to take into account the fact that a formal review will be forthcoming.

The Convener: Do members have other views, or are they happy with that suggestion?

Phil Gallie: If I may be slightly unpopular—not an entirely unusual feature for me—I disagree with the demand that the disabled should have an automatic right to legal aid, which could result in an automatic disadvantage for wider society. Specifying the circumstances that have been suggested would have wider implications. Let me give a personal example. My wife is disabled, so she would probably qualify, but I do not see why she should automatically receive civil legal aid ahead of other citizens. The proposal might cause major problems right across society. I have some hesitation about the emphasis that the petition proposes should be placed on the disabled. I am not unsympathetic to the disabled; I am just trying to be practical.

Carolyn Leckie: Phil Gallie has started to consider the merits of the petition. I agree that it would be worth while to seek the views of the organisations, which could give more detail on the arguments. Without further information, I would not want to dismiss the petition out of hand.

Linda Fabiani: I can understand Phil Gallie's view. Perhaps, when asking for information, we

should turn the argument round and try to tease out whether there are grounds for believing that people are discriminated against because they are disabled.

Mike Watson: I agree with a lot of what Phil Gallie said. My experience of legal aid cases is that problems often relate not to financial matters but to probable cause. People always think that they have a good case, but often the case is too weak for the board to back it. I would not be comfortable in supporting an automatic right to legal aid. I am happy to hear the views of the organisations that Helen Eadie mentioned, but we should be cautious in our approach to the petition.

The Convener: When we write to organisations, we do not have to say that we agree with a petition; in fact, it is clear that some members are concerned about what the petitioner is asking for. However, we can ask organisations to respond to the petitioner's view. I am sure that they will pick up on some of Phil Gallie's points.

Phil Gallie: Linda Fabiani made a valuable point and it might be worth while couching any contact that we have with the organisations in the terms that she suggested.

The Convener: Are members happy with that?

Members indicated agreement.

Current Petitions

11:26

Strategic Planning (Fife) (PE524)

The Convener: Agenda item 2 is current petitions, the first of which is PE524, on a review of strategic planning. The petitioner calls on the Scottish Parliament to urge the Scottish Executive to reconsider the proposal in the review of strategic planning to replace Fife as a single planning area.

At our meeting on Wednesday 28 April 2004, the committee agreed to invite the petitioner to comment on the Scottish Executive's response. The petitioner says that as

"things have now moved on since the original petition was submitted ... there is nothing further which I believe that the Petitions Committee can do at this stage".

On the basis of the petitioner's comment, the committee might feel that no further action is required on the petition.

Members indicated agreement.

Further Education (Governance and Management) (PE583)

The Convener: The next petition is PE583. The petitioner calls on the Scottish Parliament to inquire into the governance and management of Scotland's further education colleges and to consider reforming the legislative framework for further education.

At our meeting on 31 March, the committee considered PE583, by Joe Eyre, on the governance and management of further education colleges, and PE574, by Jeff McCracken, on the openness and accountability of FE college boards of management. The committee agreed to invite the Executive to comment on the points that are raised in PE583, specifically the claim that business interests are over-represented on college boards to the detriment of other interests. In response to that claim, the Executive states:

"Ministers concluded that it would be the wrong time to dilute the availability of the skills and expertise offered by those with a business or professional background, particularly when many colleges were working strenuously and successfully to improve their financial stability."

Helen Eadie: It has been our practice to ask for the views of petitioners on responses from the Executive. We might also consider asking for the views of the Association of Scottish Colleges.

Mike Watson: I should mention an interest of a sort: Mr Eyre is a constituent of mine and has raised some issues with me, although not the particular issue that is raised in his petition. I agree

with Helen Eadie's suggestion and I suggest that we also ask the further education lecturers section of the Educational Institute of Scotland for its views.

Carolyn Leckie: I agree with those suggestions, but I suspect that I know what the petitioner's response will be.

I want to draw attention to a couple of points. Most further education colleges run on a deficit, so the Executive's use of the reference to delivering

"best value for the record levels of resources being invested"

as a justification for maintaining the current composition of the boards is a bit of a laugh, as is the reference to

"the highest standards of financial management".

Coatbridge College, for example, has just announced possible redundancies. I do not think that any of the issues have been addressed. I disagree entirely with the assumption that the high level of business interest in college boards means that they have the highest level of expertise, and I disagree with the assumption that students, trade unions and communities would not be able to provide better, but perhaps different, expertise. The Executive's response does not address the issues that the petition raises. As well as a formal response from the petitioner and the opinions of the colleges, it is essential that we seek responses from the EIS and perhaps from student organisations, too.

The Convener: Are members happy with that?

Members *indicated agreement.*

The Convener: We will wait for the responses.

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

11:30

The Convener: Our third current petition is PE601. 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 submissions for rights of audience in Scottish courts.

At our meeting on 12 May 2004, the committee agreed to write to the Scottish Executive to seek clarification on the timescale for the research that the Executive intends to commission on the legal services market in Scotland before it considers whether to implement sections 25 to 29 of the 1990 act. The committee also agreed to ask the Office of Fair Trading whether competition matters

that affect the legal profession are reserved and under its jurisdiction.

In its response, the Executive states:

"The research is already underway ... and we plan to publish the research findings in March 2005."

The OFT said in its reply:

"In Schedule 5 to the Scotland Act 1998, Head C3 reserves Competition to the UK Government, subject to an exception which specifically devolves to Scottish Ministers responsibility for 'the regulation of particular practices in the legal profession for the purpose of regulating that profession or the provision of legal services'."

The committee has received a further response from the petitioner, in which he comments on the Executive's letter of 20 April 2004. The petitioner says:

"the Executive is using regulation of the legal profession as a way of indirectly controlling competition and Ministers are thus taking decisions regarding what type of competition will be introduced, if any."

What are members' views?

Jackie Baillie: Given that research is being conducted and that the OFT has confirmed that the matter is devolved, I do not think that we should take any further action on the petition other than to pass it to the research group. It is more appropriate that that group consider the petitioner's comments.

Phil Gallie: We are talking about an issue that goes back to an act of 1990—a considerable time. There is practice that is working well elsewhere, so it is regrettable that people in Scotland do not have individual choice in such matters. Perhaps it would be reasonable for the committee to ask the Executive what information it has on the operation of the schemes south of the border. If it does not already have such information, we should ask why that is the case. Why must we wait until March 2005, which is the timescale that the Executive has proposed? I believe that the matter is one of choice for individuals. In the meantime, many people will have to spend a lot of money under the present system, which could be changed.

The Convener: I take on board your points, but I do not think that we will be able to change the timescale, because the Executive has announced when it intends that the research will be published. We must just accept that that is the situation. Unless members disagree, we will follow Jackie Baillie's recommendation. Is that agreed?

Members *indicated agreement.*

HMP Peterhead (PE675)

The Convener: Our next petition is PE675, which is about the suitability of conditions at Peterhead prison. The petitioner calls on the Scottish Parliament to investigate the suitability of

HMP Peterhead for long-term imprisonment of convicted sex offenders.

At our meeting on 31 March 2004, the committee considered PE667 and PE675 jointly and agreed to refer PE667 to the Justice 1 Committee for its consideration as part of its inquiry into rehabilitation of prisoners. The committee also agreed to seek clarification from the Scottish Executive about issues concerning in-cell sanitation that were raised in PE675.

In its response, the Scottish Prison Service states:

"A proposal from Peterhead to manage access to night sanitation has been received and is under consideration. No final decision has been taken."

On the wider issue of slopping out, the SPS refers the committee to the response by the Minister for Justice to parliamentary question S2W-8152, a copy of which has been circulated to members.

Stewart Stevenson has joined us. Do you want to make some comments, Stewart?

Stewart Stevenson (Banff and Buchan) (SNP): I will comment briefly—I am obliged to you for allowing me the opportunity to do so. It might be useful for my colleagues on the committee to be aware that the night sanitation proposal that is referred to by the SPS at the end of paragraph 2 of its letter was submitted in 2000. Members might share my concern about the modest—I use that word with great care—rate of progress. The letter, which is dated 21 May, also states:

"No final decision has been taken."

Given that what is proposed for Peterhead prison has passed health and safety tests there and is already in operation in Cornton Vale for a similarly compliant prison population, it is surprising that the executive of the Scottish Prison Service has rejected it, although I understand that it continues to pursue other proposals.

From my private conversations with the Minister for Justice, I believe that she and I see eye to eye on the need to make progress on the issue. We share some discomfort about the Prison Service's failure to engage on the matter. I suspect that if the committee were to find a way to increase and continue the pressure on the Scottish Prison Service, I—as the constituency member—and the Minister for Justice would be grateful.

The Convener: Your private and confidential conversations are not private and confidential any longer.

Linda Fabiani: I marked the letter from the SPS where it talks about the proposal

"to manage access to night sanitation".

I sometimes wish that folk would say what they mean. Does that mean the ending of slopping out or does it mean something else? I am shocked that the proposal dates from 2000. It is completely disingenuous of the Scottish Prison Service to suggest, as it does, that the proposal has come recently from Peterhead. For the record, I would like to state that the SPS is especially guilty of giving disingenuous answers, whether to letters or to parliamentary questions; believe me, I have had a few of them. We need some plain talking and we have to follow the letter up and ask for more information about the proposal.

The Convener: I am not unhappy with that suggestion, but I am concerned that we might be straying from the subject of the petition, which is the suitability of conditions at Peterhead prison for long-term imprisoned sex offenders. I do not know whether that brings a different dimension to the matter and whether there would be any difference if they were not convicted sex offenders. However, that is specifically what the petition is about.

Linda Fabiani: Okay. I am sure that Jim Johnston will be very well able to work something out around that.

Phil Gallie: Helen Eadie and John Scott will, no doubt, remember that the committee heard evidence on prison closures a few years ago. We considered the situation at Peterhead at some length and gave Peterhead the green light for continuation. At that time, the committee was aware of the prison's limitations. I am disappointed that more progress has not been made, but I suspect that the executive of the Scottish Prison Service might well be playing a game with us. It was sympathetic to closure of the prison at one time and is now demonstrating one of the reasons why it was right and everybody else was wrong. In formulating a response, we must be careful that we do not open up an argument for closure of Peterhead prison.

Jackie Baillie: I want to make a minor point. To echo what has been said, we should pursue the Scottish Prison Service on the detail behind its response and the timescale for its consideration of slopping out. As the petitioner specifically mentioned slopping out in the letter, I suggest that that gives us sufficient leeway to pursue the matter in the context of the overall accommodation at Peterhead. Perhaps that would be a helpful way around matters.

The Convener: Are members happy to deal with the matter by asking the questions that have been suggested?

Members indicated agreement.

Field Impairment Tests (PE714)

The Convener: The next petition is PE714, on guidelines on field impairment tests. The petitioner calls on the Scottish Parliament to urge the Scottish Executive to review the validity of field impairment tests—FITs—in its road safety campaign on the dangers of driving under the influence of drugs, to issue guidelines on disposal of vehicles that belong to individuals who fail FITs, and to issue guidelines to courts about the evidential value of FIT results.

At its meeting on 17 March 2004, the committee agreed to seek the Executive's comments on the issues that are raised in the petition. In particular, the committee requested details on whether the Executive has requested any guidelines in relation to FITs, together with an indication of how those are working in practice, given the apparent concerns over the accuracy of the tests. The committee also agreed to seek comments from the Association of Chief Police Officers in Scotland—in particular, its views on how guidelines that may have been produced in relation to FITs are working in practice, given the apparent concerns over the accuracy of the tests. The committee also agreed to seek comments from the Scottish Dyslexia Association, particularly its views on the potential accuracy of FITs when they are used on individuals with dyslexia.

Before we consider the substantive issues, I remind members that they should not refer to the specific case that is mentioned in the response from ACPOS and the Scottish Executive. As with all petitions, our remit is to consider the generic issues that are raised by the petition rather than individual cases.

The committee may wish to express concern to ACPOS and the Scottish Executive about their having identified a specific case in responding to the committee's requests for views on the issues that are raised in the petition when there was no mention of that case in the petition.

Responses that have been received from ACPOS, the Executive and the Scottish Dyslexia Association have been circulated to members.

Do members have any views?

Mike Watson: When the petition first came before us in March, I mentioned that the issue relating to Mr Humphries's son was raised with me by Mr Humphries, who is a constituent of mine. I will not comment on that matter, but I have an interest in it.

I agree absolutely with what the convener said about ACPOS and the Executive identifying a specific case; it should not have been done. We should write to them about that to express the committee's dissatisfaction. Secondly, neither

ACPOS nor the Executive has dealt in its response with the issue of guidelines on the disposal of vehicles. We should also ask them about that and ask them to complete their answer.

Carolyn Leckie: We should also seek the petitioner's views on the responses.

The Convener: That is always worth doing.

Members indicated agreement.

The Convener: We will look for those responses when the matter comes back to us.

Aberdeenshire Harbours (PE716)

The Convener: The next petition is PE716, on the Grampian Regional Council (Harbours) Order Confirmation Act 1987. The petitioner calls on the Scottish Parliament to take the necessary steps to annul the Grampian Regional Council (Harbours) Order Confirmation Act 1987 and to replace it with equitable legislation.

At its meeting on 31 March 2004, the committee agreed to write to the Scottish Executive and to Aberdeenshire Council to seek their views on the issues that are raised in the petition. In particular, the committee noted that Aberdeenshire Council provides direct financial support to the seven harbours that were brought under council ownership by the order, while the Aberdeenshire village harbour trusts rely on voluntary contributions to fund their operations, repairs and maintenance.

The committee therefore sought confirmation of the criteria for bringing certain harbours under council control, and clarification of who owns and is responsible for maintaining the other harbours. The committee also asked whether the Executive has any plans to amend the relevant legislation in order to bring all harbours under council control.

In its response, the Executive states:

"The five trusts referred to collectively in the petition as the Aberdeenshire Village Harbour Trusts are each independent statutory bodies",

and that

"Since the trusts are independent bodies, their agreement would be required before Aberdeenshire Council could take over as the relevant harbour authority."

The representative of Aberdeenshire Council went on to state:

"I am unaware of the history that resulted in some harbours being owned by the Council and others, like Cairnbulg, run by Harbour Trusts, however the significant factor is that the Council has a duty of care for harbours where they are the designated harbour authority."

Once again, Stewart Stevenson is here to enlighten us on the matter.

11:45

Stewart Stevenson: It would be fair to say that this is a slightly more difficult matter. At the heart of my constituent's concerns, as expressed in his petition and in the considerable amount of supplementary material from the clerk, is the fact that there appears to have been no clear policy underlying the differentiation between the harbours that were taken over by Grampian Regional Council under the Grampian Regional Council (Harbours) Order Confirmation Act 1987 and those that were left to their own devices. It is that lack of equity in the treatment of the various harbours that has left some communities in Aberdeenshire with the financial and practical responsibility of maintaining their harbours, while other communities have been eligible for support through the transfer of that duty to Aberdeenshire Council.

If we could establish the policy intention and practice in making the decisions at the time—I and my constituents have so far been unable to do so—that might clear the way for providing Cairnbulg and other harbours that are in a similar situation with the appropriate public support and for treating them equitably. It may yet be that further pressure should be put on Aberdeenshire Council. I am not sure that the Executive itself has a particularly strong locus in this regard; its letter supports that comment.

Helen Eadie: The committee will be particularly interested in the wider general issue of the ownership of harbours. I do not think that the Executive's response answers the point. It would perhaps be useful to respond to the Executive to ask it to clarify further its views. It is my understanding that a similar situation applies to a number of harbours around Scotland—I think that St Andrews harbour in Fife is in the same position and there may well be many others. I suggest that we write back to the Scottish Executive seeking further clarification not just in relation to the Aberdeenshire harbours, but on the Scotland-wide position. It is the wider policy issue with which we are really concerned.

The Convener: Should we seek more clarification on the matter? The answers that we have received basically reaffirm the situation as we know it. We know that there is differentiation between one type of harbour and another, but no one seems to be saying what they intend to do about it. It might be useful to hear why we are where we are and what the future holds. Is that agreed?

Members indicated agreement.

The Convener: I thank Stewart Stevenson.

Government Finance (PE719)

The Convener: The seventh current petition is PE719, on the review of local government finance. The petitioner calls on the Scottish Parliament to establish, under proposals to review local government finance, an independent expert body whose specific remit would be to consider the fairness of the current council tax and water charging systems and the administration and viability of other more equitable revenue-raising measures.

At our meeting on 31 March 2004, the committee agreed to write to the Minister for Finance and Public Services and to the Minister for Environment and Rural Development. The Minister for Finance and Public Services announced details of a review in a statement to the Parliament on 16 June. He said:

"The review will be independent of the Executive. It will be free to consider the proposals that are put to it by the various parties that are represented in the Parliament and by other interested groups."—[*Official Report*, 16 June 2004; c 9085.]

The Minister for Environment and Rural Development has stated:

"On 3 February I announced the Executive's intention to consult widely on the views of customers on the principles for setting charges for different groups of customers."

Helen Eadie: Given that the Minister for Finance and Public Services made an announcement last week in Parliament, it might be an idea to send the petitioners a copy of that announcement, and to pass on to the minister a copy of the petition to ensure that information and views are shared by the petitioners and ministers. The invitation to the public to participate in and be consulted on the issue is also appropriate to the petitioners. That might be helpful.

Jackie Baillie: Perhaps we should also send a copy to the review group. That would be a belt-and-braces approach on the basis that the review group will take evidence and might want to contact the petitioners directly.

Carolyn Leckie: As far as I am aware, the membership of the review group has not been announced. One of the things that the petitioners were concerned about was that groups such as theirs should be adequately represented. I agreed with the suggestions in so far as they will highlight the issues, but I stress that the petitioners want membership of the review group to include representatives of the elderly, pensioners and the low paid.

The Convener: It would be worth our while to point out to the Executive that that specific request was made and to ask it to take it into consideration.

Members indicated agreement.

Local Autism Treatments (PE729)

The Convener: Our final petition is PE729, on funding a conference on autism. The petitioner calls on the Scottish Parliament to urge the Scottish Executive to fund a two-day conference on autism treatment so that parents, professionals and medical doctors can receive information and practical advice on screening and testing of autistic children and adults, which would lead to individually tailored treatment protocols, such as are emergent in the USA.

At our meeting on 12 May 2004, the committee agreed to establish whether the petitioner had made a direct approach to the Scottish Executive about funding for such a conference on autism treatments. However, the petitioner says that

“It is now ... our intention to work towards funding a conference ... via private initiatives”,

so the committee might want to agree to take no further action on the petition. Is that agreed?

Members indicated agreement.

Meeting closed at 11:52.

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