

PUBLIC PETITIONS COMMITTEE

Wednesday 15 September 2004

Session 2

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PUBLIC PETITIONS COMMITTEE

13th 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)
*Rosie Kane (Glasgow) (SSP)
*Campbell Martin (West of Scotland) (Ind)
*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 :

Jim Black (Scottish Accident Prevention Council)
Julia Clarke (Consumers Association)
Ajay Patel (Consumers Association)
Brian Topping (Scottish Accident Prevention Council)
Robbie the Pict (Scottish Peoples Mission)
Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 5

Scottish Parliament

Public Petitions Committee

Wednesday 15 September 2004

[THE CONVENER *opened the meeting at 10:00*]

Interests

The Convener (Michael McMahon): I do not know whether to say, “Hi-de-hi” with that bell going off. I call to order the 13th meeting of the Public Petitions Committee in 2004. Linda Fabiani has sent her apologies as she cannot make it to the meeting this morning.

Item 1 is the declaration of interests. I welcome Rosie Kane to the committee; I hope she has a long stay and a good stay on the committee. I ask her whether she has any interests to declare.

Rosie Kane (Glasgow) (SSP): Hi-de-ho, Michael. I do not have any interests to declare, but I refer you to the Parliament’s register of members’ interests.

New Petitions

Home Safety Officers (PE758)

10:01

The Convener: The first new petition is PE758 by Jim Black on behalf of the Scottish Accident Prevention Council, which calls on the Scottish Parliament to urge the Scottish Executive to place a statutory requirement on all local authorities to employ home safety officers and to provide the necessary funding for that. Jim Black is chair of the home safety committee of the Scottish Accident Prevention Council and together with his vice-chair, Brian Topping, he is present to give evidence in support of the petition. Welcome to the committee. You have three minutes to make your opening statement and we will then ask questions.

Jim Black (Scottish Accident Prevention Council): Good morning, ladies and gentlemen. Thank you for giving us the opportunity to speak to our petition. As the convener said, I am chair of the home safety committee of the Scottish Accident Prevention Council, and Brian Topping is the vice-chair.

I start with some hard facts. Every year in Scotland, as a result of an accident in the home, about 250 people die, about 17,600 people are admitted to hospital, and about 346,000 people seek medical attention. Nearly 1,000 people every day of every year seek medical attention after having an accident in the home, which is where people consider themselves to be at their safest. In addition to the pain and suffering that such accidents cause—not only to the victims, but to their families—there are other consequences. Businesses lose production due to accidents, many days at work are lost, there are direct and indirect financial losses to the victims and their families, and that does not include the massive burden that is placed on the national health service.

The Scottish Accident Prevention Council, and other organisations such as the Royal Society for the Prevention of Accidents, think that those figures are unacceptably high and we are working hard on ways to reduce them. We think that it will help for home safety officers, with the necessary funding, to be employed by every local authority in Scotland, hence our petition. There are currently six full-time home safety officers in Scotland and a further seven part-time officers. Home safety officers alone will not change the world, but they can highlight to the public the dangers in the home environment. They can also liaise with other agencies and develop networks and multi-agency approaches to tackle the problem.

The petition that is before the committee today has not come out of nowhere. A few years ago, the Scottish Accident Prevention Council canvassed the opinions of all local authorities, health boards, fire brigades and health councils on the subject of home safety. Of those who replied, 78 per cent supported our idea of making home safety officers a statutory function. Home safety affects everyone living in Scotland today. Statistics show that people are more likely to have a home accident if they live in an area of social deprivation. Home safety officers in each local authority area could identify the people thought to be most at risk and such officers could ensure that education, training and resources are targeted to raise awareness of the dangers to be found in the home and the steps that can be taken to reduce the risk.

If 1,000 people per day were to seek medical attention due to any other single issue there would be an outcry, but because accidents happen in the privacy of the home the scandal is often ignored. In asking the committee to consider our petition, I hope that we take another step forward in reducing the scale of the problem.

The Convener: Thank you, Mr Black. Stewart Stevenson is with us this morning—does he wish to add a couple of comments before we move on to committee members' questions?

Stewart Stevenson (Banff and Buchan) (SNP): I will be brief. I attended the SAPC's conference in Crieff this year, as I did last year, where the subject was put to me in a sensible and well-articulated way. The conference material, which focuses on safety in its widest sense and not just in the home, makes it clear to me as an individual MSP that the subject could benefit from parliamentary scrutiny but, obviously, it is up to committee members to take their view.

It is important to note that in the deliberations so far the subject has attracted interest and support from across the political spectrum and from many agencies and bodies that are involved in safety. I am here simply to give the matter my support in the perhaps vain hope that that will help.

Helen Eadie (Dunfermline East) (Lab): I notice that the petition has considerable support, including a letter about its value from Tom McCabe, the Deputy Minister for Health and Community Care. Will you give us one or two examples of the worst accidents that occur in the home that could be prevented by your involvement in the way that you suggest?

Jim Black: There is a range of accidents. The worst are probably falls in the elderly, which can sometimes be avoided by simple interventions. If we do not know that people have problems and they do not know that they can seek help, the

costs can be considerable, through pain and suffering or ending up in sheltered housing or in hospital with a broken hip. Simple interventions can prevent that.

Under-fives are also a highly vulnerable group. Falls affect them, as do burns and scalds from water from bath taps, for example. Simple interventions can save lives.

Brian Topping (Scottish Accident Prevention Council): Having a home safety officer who could perform a safety check of an elderly person's home and give a few home tips would improve that elderly person's situation.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning. It is obvious that much concern is felt about persistent accidents in the home, especially among the old and the young, as you said. If your proposal gained public support, from where would funding come to support it?

Jim Black: I am not an accountant, so I have not worked out the figures, but we have just to consider the burden that 1,000 people a day attending, 250 people a year dying and 17,500 people a year being admitted to hospital must place on the national health service. If those accidents did not happen, the burden on the national health service would reduce.

Brian Topping: We hope that the Scottish Executive would find the money in its resources to fund the proposal in the petition. As Jim Black, the chairman of our home safety committee, said, the national health service would save money. We would spend money to save much money and misery.

John Farquhar Munro: Do you suggest that a percentage of the cost should be met by the budget for health services, or should it come from the Scottish Executive?

Jim Black: Funding could come from a range of places. If we reduced the number of accidents, we would reduce burdens on social work services, occupational therapy, the NHS, doctors and housing associations that need to make adaptations after accidents. If simple interventions can be made before the event, everyone will benefit.

John Farquhar Munro: If the scheme were implemented and various officers visited households up and down the country, the officers' suggestions would be advisory. Could the situation develop so that officers returned to households because their advice had not been implemented and created a problem for householders?

Jim Black: No. I am a full-time home safety officer and the suggestions that I make are advisory. I am not telling people how to live; I am

giving them advice about a safer way to live. It is up to them whether to take that advice. I could never see there being an enforcement issue; the officers would have an advisory role.

John Farquhar Munro: So it would never become a statutory requirement.

Jim Black: The implementation of the advice?

John Farquhar Munro: Yes.

Jim Black: No. That would be taking things a step too far. People can live in their own homes as they wish. I am just giving them advice on how to do so more safely.

Rosie Kane: I was quite alarmed by the figures in your submission. The figure for the on-going treatment and care for a child who had suffered a body scald was almost like a misprint at £250,000. Do you see the funding for the officers as better economics in that regard?

Jim Black: Yes. If we could reduce the number of such accidents, we would be saving children from a lifetime of misery and operations and the money that we would save the NHS could be put into other prevention initiatives.

Rosie Kane: I would like clarity about what your job entails. What would you do in somebody's house? Would you help the household access safety appliances and equipment?

Jim Black: Yes. I do not want to take up the rest of the day talking about what I do, but if I were working with an older person, for example, I would give them advice, refer them to Care and Repair Forum Scotland if they needed a small repair done, put them in touch with social services to see whether they were missing out on benefits that could help them buy a piece of safety equipment and contact a social worker or doctor if they needed one. If there was a gas or electricity problem, I would refer it to the relevant agency. Many older people—my dad is a perfect example of this—say, “I don't want to bother them”, so I would take up the problem on their behalf.

Rosie Kane: Would you be able to help people access grants or finance if they were entitled to them?

Jim Black: Yes. If the problem was severe we could refer them to local authority grant schemes.

Rosie Kane: Is there any evidence on how successful the programme has been so far?

Jim Black: I have been working full time only since April.

Rosie Kane: Can you give us anecdotal evidence?

Jim Black: Yes. We might go into a house and see a stair tread that is an accident waiting to

happen. Under the small repairs scheme, which is run by Care and Repair, we can get someone to come round and tack it down. We do not know whether we have saved someone from breaking a hip, but we sleep a bit better at night knowing that we have done something to help them.

John Scott (Ayr) (Con): I want to ask two questions. First, from the statistics with which you have provided us, it appears that accidents and death rates had been falling until 1996 when, strangely, they started to go up again. Can you think of a reason for that? Is it just through chance?

Jim Black: I have no idea. Although death rates have been falling, the number of people seeking medical attention has been rising significantly. There might be more accidents, but people are not dying from them.

John Scott: My second question is whether, where home safety officers have been in place, there has been a reduction in the number of accidents. Have you any way of measuring that?

Jim Black: It is difficult to measure that, because of the lack of useful statistics that we can gather. There could be a whole new petition on the gathering of statistical evidence. The full-time home safety officers have anecdotal evidence, but, unfortunately, there are no firm statistics to back it up.

Brian Topping: You are probably aware of the home accident surveillance system and the leisure accident surveillance system. Sadly, the collection of those statistics has been stopped. Our committee has been pushing for the proper gathering of statistics throughout the health service. I am sure that MSPs would want to measure the success of anything that they were going to help fund. We support the fact that there are road safety officers, and that they have targets to reduce the number of accidents on the roads, but three times more accidents happen in the home than on the roads. That is why we feel that it is important that we reduce pain and suffering and that it is cost-effective to do so.

Rosie Kane: If I read the statistics right, there has been an increase in the number of men who are injured at home—previously the figure was higher for women. I suspect that that might have something to do with the DIY craze, because people are building and making things more.

Jim Black: That is entirely true.

Campbell Martin (West of Scotland) (Ind): So far, the Scottish Executive appears to be resisting your request and has said that placing such a responsibility on a local authority would be unfair given that the health service and the fire service also have a role to play. Are you asking for this job

to be given to local authorities because they seem to be the most logical candidate to play a co-ordinating role? For example, they could liaise with the fire service and the health boards. I wonder why the Executive is resisting such a logical step. Will you clarify exactly why you are asking for that responsibility to be placed on local authorities?

10:15

Jim Black: I see it as a role for the local authority. After all, it is partly responsible for the fire brigade and is involved in formulating, for example, health improvement plans with health boards, health councils and so on. It also has access to all the corporate bodies that might be involved and could even bring in other areas such as housing and social work. Moreover, it could liaise with other agencies and have a better chance of getting the job done.

Brian Topping: I believe that the Government's policy is to ensure that health boards and local authorities interact. Interestingly, Tom McCabe, who was the key speaker at the Scottish accident prevention conference in Crieff, told us that he would like local authorities to explain to him why they did not have home safety officers. The answer is quite simple: it is a matter of money. Councils will quite rightly do what they have to do in education and so on. No matter whether the Executive provides all the funding or whether some of it comes from the health boards, we need a co-ordinated approach on this matter. I am sure that many ministers want to shorten hospital waiting lists and investing in this very worthwhile project could reduce the incidence of accidents and save a lot of money.

John Scott: Has the Health and Safety Executive expressed any view on your proposals?

Jim Black: The Health and Safety Executive is really only interested in occupational health and safety.

John Scott: I would have thought that, given the level of accidents shown in the statistics, it would have been worth while for you to seek the HSE's endorsement.

Jim Black: I have certainly tried to do that. However, after discussions on the matter, it appears that the HSE is busy with occupational health and safety.

The Convener: Can we move on to recommendations about what to do with the petition?

Helen Eadie: Before I make any suggestions, I want to pick up on the point about how statistics are gathered. I notice that, in his response to us dated 5 September, Tom McCabe points out that a project involving the information and statistics

division of the national health service is seeking to develop a system by which accident and emergency departments will provide information to allow the recording of accident and other data. I think that we would all welcome such an approach.

Before we take any further action we should also ask the Scottish Executive Health Department and the Convention of Scottish Local Authorities for their comments. Perhaps once we receive their views we can then decide how to progress the petition.

The Convener: Are members happy to take up the matter with the Scottish Executive Health Department and await its response before we give the petition any further consideration?

John Scott: Perhaps we should also write to COSLA.

The Convener: Sorry. I meant to say that. When we receive responses from those two organisations, we will consider the matter further.

I thank the petitioners for speaking to the petition this morning. Obviously, we will keep you informed of how we progress the matter.

Judicial Proceedings (PE759)

The Convener: The next petition is PE759, by Robbie the Pict, on behalf of the Scottish Peoples Mission. The petition calls on the Scottish Parliament to take the necessary steps to ensure that the names of judges serving on a judicial bench are displayed and that a full tape recording or shorthand record is kept of court proceedings, which will be available to any party involved. I welcome to the meeting Robbie the Pict, who will give evidence in support of the petition. He has three minutes, after which members will ask questions.

Robbie the Pict (Scottish Peoples Mission): Thank you, but I must make preliminary points about competency. I want to declare an interest in a sense. I reserve my recognition of the constitutional legitimacy of the Scottish Parliament and see it as but a franchise. As such, it is constitutionally dubious. I simply want to record my personal perspective in the *Official Report*, but I have a duty to the people of Skye and must play along with the system that is available to us to try to express ourselves.

Mike Watson (Glasgow Cathcart) (Lab): I find that unacceptable. First, I challenge the legitimacy of what has been said. Secondly, if that is the gentleman's view, why on earth is he here?

Robbie the Pict: There is currently no alternative. We must make use of the available

channels. I do not see any problem in saying that a person can reserve judgment about the matter.

Mike Watson: The Parliament was established on the basis of a mandate from the people of Scotland. Therefore, I cannot see how it can possibly lack legitimacy.

The Convener: I agree. However, we should try to progress the petition. The petitioner has said what he has said, which has been recorded. We should now move on.

Robbie the Pict: My second objection relating to competency is only an inquiry.

The Convener: I point out that you are eating into your three minutes by making such points. Dealing with the issue would be preferable.

Robbie the Pict: I am dealing with preliminary matters.

The Convener: Whether or not you think that you are dealing with preliminary matters, you are still taking up your three minutes. You have been given three minutes and if you wish to take them up by discussing preliminary matters, you will have no time to discuss the petition. I am being practical. Addressing the petition would be better.

Robbie the Pict: I reserve the right not to be horsed into doing so and the right to raise preliminary matters.

The Convener: I am sorry, but as convener I give the same opportunity to every petitioner who comes to meetings. You have three minutes to address the content of your petition. Will you please address the issue that you have brought before the committee and not make statements of opinion that are irrelevant to the workings of the committee.

Robbie the Pict: They are not statements. It is legitimate to ask whether the Parliament recognises its obligations in respect of the European convention on human rights. Does it—yes or no?

The Convener: Of course it does.

Robbie the Pict: So you would say that you are, or attempt to be, convention compliant.

The Convener: The Parliament must be convention compliant—that is a statement of fact. Will you now proceed to the petition?

Robbie the Pict: I am happy to do so. However, it is important to establish that you are prepared to be convention compliant. That is all.

The Convener: I am glad that you have established that for us. I think that we were all aware of that.

Robbie the Pict: As far as I know, nobody has been aware of it in Scotland.

The Convener: Okay. We will not get into a debate. Will you please address the petition?

Robbie the Pict: The Executive may have recognised its obligations, but the Public Petitions Committee—

The Convener: You now have around 30 seconds to address the petition.

Robbie the Pict: You too have used up a lot of time talking. I would like my say.

I will deal with the identification of judges. On 2 October 2002, the people of Scotland were given a direct statutory right. In the determination of their civil rights or of any criminal charge against them, they now have the right to

“a fair and public hearing by an independent and impartial tribunal”

established by law. Previously, they had to appeal to Strasbourg when that was denied. A court of law falls under the definition of “tribunal”. There is therefore now a legal obligation on persons sitting as a court of law to deliver human rights.

Section 6(1) of the Human Rights Act 1998 states:

“It is unlawful for a public authority to act in a way which is incompatible with a Convention right.”

Unfortunately, the current United Kingdom Crown administration of the non-self-governing territory of Scotland has not yet seen fit to establish constitutionally independent courts. With a failure to be convention compliant in that first legal duty, there thus arises an extra need to ensure that the best possible effort is made to fulfil the second obligation—that of impartiality. Impartiality essentially addresses emotional potential: the possibility of a conflicting duty of sympathy or preference. The citizen, in having his rights determined, now has the right to a reasoned judgment from an impartial judge with no possible or perceivable conflict of interest. It is unlawful to deliver an unreasonable or no judgment in a biased manner.

The obvious first step in providing a proper legal service is to publicly identify all judges by name. We need to know exactly who sits in judgment before any procedure begins so that reasonable objections to perceived conflict can be made immediately.

At present, there is no public record of proceedings for summary criminal proceedings in the district or sheriff courts or for solemn proceedings before one High Court judge. If a finding is appealed, the appeal is subject to a dubious private sifting process by one judge, to which the appellant is not invited. The appellant may appeal any refusal to a second secret hearing, which is presided over by two judges.

During the sifting process, there is no requirement for the production of a public transcript of earlier proceedings. There is no public record of what may transpire in the appeal court itself. That makes Scotland sub-third world in a field in which we vainly claim excellence.

There can be no possibility of a fair and equitable hearing when the court hears the stated case as recounted by only the sheriff or magistrate or only the High Court interlocutor. In a case of bad judgment, human nature dictates that a judge will defend his decision. There is no public check against that being distorted to the point of injustice, even in the appeal court. That results in the wrongly convicted becoming angrily determined to seek justice. That clogs up the courts and it costs public money. The bulk purchase of cassette tapes would produce a huge saving.

I am obliged to the committee.

The Convener: Before we proceed to questions from members, I point out that the petitioner was allowed to go beyond his three minutes.

Jackie Baillie (Dumbarton) (Lab): Will you clarify your suggestion for the naming of judges? Is that for the sheriff and district courts? My understanding is that that already happens in the High Court and in the Court of Session.

Robbie the Pict: That may happen in the Court of Session, but it seems to be haphazard. It certainly does not happen in the High Court of Justiciary, whereas it should happen throughout the system. If the Court of Session has already moved in that direction, I welcome that. Even in this committee, we have name plates. In the High Court and in the sheriff courts of the land, the judges should have name plates. Judges already arrive partially covered in a theatrical wig and full gown, and all we can see is their coupon?

Jackie Baillie: An interesting term. I understood that judges in the High Court and in the Court of Session have, or should have, name badges to identify which judge is sitting on the bench, but it is clear that sheriff and district courts do not. Thank you for that helpful clarification.

Will you also clarify your suggestion for a recording of proceedings? Would that be for summary cause and small claims and for summary procedure in criminal cases, for which no transcript or recording is currently provided? If the Executive accepted that as a good idea and changed court procedures to accommodate that, would you support the retention of the current practice whereby a small administration fee is demanded for a public transcript?

Robbie the Pict: I would abolish any attempt by the authorities to claw back money from members

of the public who want to find out what transpired and what the legitimate record of events is. For persons who are convicted under criminal procedure at the High Court of Justiciary, the fee for transcripts can run into hundreds of pounds. I have experience of how expensive it can be to request the transcript of a three-day procedure. No hindrance should be put in the way of proper justice in Scotland.

The Convener: If members have no further questions, are there any suggestions about what should be done with the petition?

Jackie Baillie: As a first step, we should write to the Executive and to the Law Society of Scotland to get their view on the matter. Clearly, my understanding of when names should be displayed is different from the petitioner's. It is important that we clear that up, as well as the more substantive points that the petition raises.

The Convener: Are members happy with that?

Members indicated agreement.

The Convener: We will let you know what response we receive from the Law Society and the Scottish Executive.

Robbie the Pict: I am obliged, but 600 miles for 180 seconds is not great.

Legal Profession (Regulation) (PE763)

10:30

The Convener: Our next petition is PE763, from Julia Clarke on behalf of the Consumers Association. The petition calls on the Scottish Parliament to urge the Scottish Executive to implement urgently the findings of the Parliament's Justice 1 Committee's inquiry into the regulation of the legal profession. Julia Clarke and Ajay Patel are here to give evidence in support of the petition. Welcome to the committee. You have three minutes, after which we will ask questions.

Julia Clarke (Consumers Association): Following a survey carried out by our consumer magazine *Which?*, the Consumers Association believes that Scottish consumers are poorly served by the complaints system currently operated by solicitors. We have heard about complaints to do with unprofessional behaviour among solicitors, negligence, mistakes made, excessive delays and dishonesty—yet more than 40 per cent of the people who told us that they had received poor service did not complain. They said that there would have been no point or that it would have been too stressful an experience. Three quarters of those who complained to their solicitors said that their complaint was not resolved, and many people told us about their confusion, frustration and distrust, and about the

lengthy misery that their experiences had caused them. Several gave up simply because the process made them ill.

The majority of people have cause to use the services of a solicitor at some point in their life—usually when buying or selling a house, for a divorce, or after a bereavement. Those are stressful experiences in their own right, and people have the right not just to high standards of legal care but to a decent, independent complaints process if things go wrong. The Consumers Association does not believe that that is happening in Scotland at the moment.

Last year, the Law Society received more than 2,000 letters of complaint, which it then investigated. It also received 923 letters that it termed “miscellaneous” and did not investigate. From the legal services ombudsman’s own research, the Law Society took an average of 78 weeks to investigate complaints. The ombudsman found that a fifth—21 per cent—of the complaints that she looked into had taken the Law Society more than two years to investigate.

In her annual report this year, the ombudsman says that complaints to her rose by 61 per cent over the past year. She found that the Law Society had failed to investigate adequately 42 per cent of the cases that she had examined. Too many people are not having their complaints adequately heard at the moment. That is an obvious injustice.

After its inquiry into the regulation of legal services in November 2002, the Justice 1 Committee made a series of recommendations to the Executive. We believe that the implementation of those recommendations would greatly improve fairness for consumers who use legal services. They include a single gateway for all complaints against the legal profession and increased powers for the ombudsman to investigate decisions, prescribe timescales to cut down on delays and increase compensation to a decent and meaningful level. The maximum award of £1,000 has not been increased since 1990.

We are concerned that, although the Government is currently reviewing the legal profession in England and Wales, Scotland risks failing to move forward with a fairer and more modern legal services complaints procedure that is easily understood by people, independent, transparent and effective. The current system is mired in the past, is not user-friendly or transparent and needs urgent updating. We therefore seek the Public Petitions Committee’s support for the implementation of the Justice 1 Committee’s findings.

Jackie Baillie: I have read your *Which?* report and considered the methodology used. Would I be correct in saying that, in your sample, 30 people from Scotland responded?

Julia Clarke: We had more than 700 responses from throughout the United Kingdom; half of those people came back and completed questionnaires, and 12 per cent of those were from Scotland. We had around 36 or 37 responses from Scotland.

Jackie Baillie: I just wanted to put the information in context. When you talk about the “Law Society”, are you talking about the Law Society of Scotland?

Julia Clarke: Yes. I am sorry; I did not make that clear.

Jackie Baillie: I asked the question just to avoid confusion, because it is a UK study and there are obviously differences in law, and different bodies are involved.

Are you aware of what has been happening in the past six months to a year, since the Justice 1 Committee’s report was published? There has been quite a bit of movement and what I would call welcome progress.

Julia Clarke: There has indeed. We welcome what the Law Society of Scotland has been doing. It has put lay people on some of its committees, which is a help in speeding up the process of dealing with complaints. It has also advised solicitors to send a letter of estimate, so that people know what they are in for when they hire a solicitor. That is a great help, but it goes nowhere near resolving all the issues—the complaints that are not properly dealt with by the Law Society of Scotland—that either fall by the wayside or pitch up at the ombudsman’s office. There is a great deal to be done to make the service properly available to consumers.

Helen Eadie: I am interested in your petition. I notice from a letter that we received from the Law Society of Scotland that a memorandum of understanding has been entered into between it and the Faculty of Advocates, dealing with an improved procedure for complaints involving solicitors and advocates. If you are aware of that, could you comment on it? To what extent will it help to improve the situation?

Julia Clarke: I was not aware of the memorandum of understanding. While it is welcome, the primary problems are that there is no single gateway, the system is not independent and the Law Society of Scotland is investigating complaints about its own members, when its primary function is to represent those members. It is difficult for it to do both. It tries to, but the system does not work.

Ajay Patel (Consumers Association): Many of the improvements have existed for some time in England, but I have been involved in the current Clementi review of the regulation of legal services, which has not produced significant improvements.

The problem of poor handling of consumers' complaints about lawyers has existed for upwards of six to 10 years. A lot of changes have been implemented to improve the way in which complaints are handled and to speed up the complaints process, but unfortunately they have not yielded results. We need a more radical overhaul of the system.

Helen Eadie: Are you aware that the Law Society of Scotland fully supports the proposal that compensation for inadequate professional services should be uprated from the current maximum of £1,000 to take account of inflation since 1990?

Julia Clarke: I was not aware of that. Again, that is welcome, but apart from anything else there is still the problem that complaints are not properly heard. They are falling by the wayside, through the gap whereby the Law Society of Scotland chooses not to investigate complaints. Many complaints that, in the ombudsman's opinion, should have been investigated—42 per cent of those that she examined—turn up at her door, which is a great concern. No doubt there are many complaints that do not turn up at the ombudsman's door—people just go away without justice.

Ajay Patel: I understand that the ombudsman's caseload in Scotland has trebled over the past three years. That shows two things: first, consumers are more willing to complain and are more aware of their right to complain to the ombudsman; and, secondly, there is dissatisfaction with the way in which lawyers at the grass roots handle their clients and fail to resolve complaints in-house.

John Scott: If so many people are complaining, why did so few take part in your survey?

Julia Clarke: You have to be extremely highly motivated to respond. We put adverts in the Scottish and UK press, but to respond in detail over an event that perhaps has been extremely stressful and upsetting takes a great deal of focus and determination. People are required to fill in a lengthy questionnaire about their experience—they have to be quite committed to follow up the situation.

John Scott: I presume that it has been an issue of concern to your organisation for some time.

Julia Clarke: Yes.

John Scott: Did you give evidence to the Justice 1 Committee inquiry when it took evidence on the matter?

Julia Clarke: The Consumers Association opened a Scottish office just after that time, so we were not here bodily to take part, which of course is a matter for regret.

John Scott: Did you write to the Justice 1 Committee or make representations in any other way?

Julia Clarke: No, not at the time. As I said, we did not have a Scottish office in operation at that point.

John Scott: Presumably you still represented Scottish consumers.

Julia Clarke: That is a fair point. It would be better if we could travel back in time and make the appropriate representations at that point. However, we are trying our best to address the situation as it stands and to help Scottish consumers. We are doing a piece of work that really needs done.

John Scott: We are all trying our best in that regard.

In light of the recommendations that were made by the Justice 1 Committee, many of which have been implemented, what other recommendations would you now make?

Julia Clarke: The single gateway approach is still not clear to consumers, so we recommend that that be clarified. Further, the ombudsman could be given extra powers to investigate cases and carry out audits. There are failings in the system and they need to be addressed in a fairly radical way. It is good that incremental change is happening, but it will not be enough to address the problem.

John Scott: I am trying to draw out of you what changes you think should be made other than those that were recommended by the Justice 1 Committee. In essence, are you recommending only that there be a single gateway?

Julia Clarke: There should be an independent single gateway.

Ajay Patel: We would like there to be a clearer separation between the representative roles of the professional bodies, particularly those of the Law Society of Scotland and the Faculty of Advocates, and their regulatory powers. Therein lies the key problem of the way in which complaints are handled, which leads to perceptions of bias by consumers who see a closed shop looking after its members. That does nothing to promote consumers' confidence in the profession.

On specific measures that we would recommend, a single gateway is important. I am not sure whether that is already on the agenda, but I will illustrate why it is important. A consumer does not know whether they are dealing with a solicitor or a barrister; they think that they are simply dealing with a lawyer. Often, they are purchasing a service that is carried out by non-lawyers. For example, a personal injury claim will

be managed by a claims management company. Whether the element of the service that a consumer is purchasing is regulated depends on the status and qualification of the person who delivers that service. For instance, if a claims management company sells you a poor insurance policy, you may well have a complaint against that company but there is no regulatory back-up for that, whereas if a solicitor has made a mistake or has done something wrong, you have recourse to the Law Society. Such anomalies need to be dealt with. While having a single gateway will not resolve all of them, it will give consumers confidence that they are taking their complaints to the right place and will not be bounced between various regulators or have to face the complexities of a difficult regulatory system.

Julia Clarke: The issue is also to do with timescales. Some 21 per cent of the complaints that go to the legal services ombudsman take more than two years to be investigated by the Law Society. That is a long time for people to have to be dragged through the process and to have the matter hanging over them. People have described to me how the complaints process has taken over their lives and has ruined their health and relationships. The process is difficult for ordinary people to go through.

We would like the ombudsman to have powers to call for problems to be dealt with within a certain timescale so that people would know when matters would be properly investigated to the ombudsman's satisfaction and they would have an outcome. At the moment, investigations can drag on and on and people are often put off from embarking on the process because they know what can happen to them.

Campbell Martin: The Executive has taken forward some of the recommendations of the Justice 1 Committee. Do we know whether that committee has been made aware of the reasons why the Executive does not intend to take forward all the recommendations?

Jim Johnston (Clerk): As far as we are aware, the Justice 1 Committee is still monitoring the situation.

Campbell Martin: Is the Justice 1 Committee in contact with the Executive and asking why it does not think that the recommendations are good ideas?

Jim Johnston: Yes. As you will see, one of the recommendations is that members of the Public Petitions Committee may wish to refer the petition to the Justice 1 Committee as part of its continuing monitoring of the report.

Campbell Martin: Julia Clarke does not know why some of the recommendations are considered to be good ideas and some are not.

Julia Clarke: Some of them will require primary legislation—that is the difficulty. I understand that, but a lot of people are suffering under the system at the moment. It has been nearly two years, and we are concerned that the matter will stay on the shelf. It really needs to come off the shelf and the recommendations need to be implemented, and that is what we seek.

10:45

Jackie Baillie: I will attempt to be helpful. The representatives of the Consumers Association are right that it is hugely important to have confidence in the legal profession and we therefore need to avoid generalisations. I am conscious that, although we can produce horror stories from two years ago, the reality in the recent past is there is now 50 per cent lay representation on more of the Law Society's committees. That is welcome progress; the firewalls are starting to be put in place. You are absolutely right—it is a two-stage implementation process. One stage requires primary legislation, and finding a slot for that will be critical. I do not want to spoil the debate, but I will make a recommendation. Given that the Justice 1 Committee has said that it wants to monitor progress and ensure that its recommendations are implemented, we should refer the petition to that committee because that is its natural home.

Rosie Kane: I, too, would like the petition to go before the Justice 1 Committee. I presume that to empower and improve the system will improve the profession as a knock-on effect because expectations will be higher. Have you worked out how much the maximum award would be—

Julia Clarke: If it were brought up to date?

Rosie Kane: Yes.

Julia Clarke: I am not sure that we have; the figure is beginning to be lost in the mists of time. We have not worked out how much it would be, but no doubt that could be done easily.

Rosie Kane: It has been £1,000 for more than 14 years.

Julia Clarke: Exactly.

The Convener: Jackie Baillie recommended that we should refer the petition to the Justice 1 Committee as part of its monitoring of the situation. Do members agree that that is the right course of action?

Members indicated agreement.

The Convener: We will remain in dialogue with the Justice 1 Committee and monitor the situation. We will get back to you when there is some progress.

Julia Clarke: Thank you.

Gypsy Traveller Sites (PE760)

The Convener: The Consumers Association representatives were the final petitioners to attend this morning's meeting. Next, we will go through the other new petitions, the first of which is PE760, from Mhairi McKean on behalf of the Gypsy/Traveller Community Development Project and the Scottish Human Rights Centre. The petition calls on the Scottish Parliament

"to investigate the provision and cost of electricity for Gypsy/Traveller sites and accessibility to the Central Heating and Warm Deal Programme for people in mobile homes."

The Equal Opportunities Committee conducted an inquiry into Gypsy Travellers and public sector policies in 2001. The Executive's response to the report notes:

"Local Travellers should be consulted about any new site provision."

An update on progress by the Executive in June 2004 states:

"Communities Scotland Regulation and Inspection Division are now ... regulating the provision of sites and services by local authorities",

which are

"expected to assess the accommodation needs of Gypsies/Travellers in their Local Housing Strategies."

The eligibility criteria for central heating and warm deal programmes are summarised in the briefing that was sent out to members.

Before we discuss the matter, I mention that I am a member of the Gypsy/Traveller Community Development Project. That came out of my involvement as the reporter who took through the inquiry for the Equal Opportunities Committee in 2001. No remuneration is involved, but the project is something that I am heavily involved in. I will try to stay out of the debate as much as I can.

Helen Eadie: Perhaps we should consider asking the Scottish Executive to update us on any developments that emerge from what is obviously a problem. It would be good to hear from the Executive on that.

Rosie Kane: I am really concerned that no progress has been made on this issue. If I read the petition correctly, domestic fuel sometimes costs individuals £10 a day. They are being charged commercial rather than domestic rates, because that is all that some local authorities can deliver.

The initial paper from Mhairi McKean makes it clear that this is a matter of life and death in some cases and that discrimination is taking place. The convener probably knows more about this matter

and could enlighten me on it; however, as I have said, I am very concerned about the whole issue. We need to stamp out such discrimination before it is winter again; after all, our climate can be dangerous.

John Scott: We should also give the Eaga Partnership a chance to respond to the petition. I have to say that, in my dealings with Eaga, I have found its representatives enormously enthusiastic about providing heating for elderly people. If Gypsy Travellers meet the criteria, I would be surprised and dismayed if Eaga has not been as enthusiastic about providing heating to them as I would have thought it would. Perhaps there is some reason for that that we are not aware of. This is a matter of urgency because, as I understand it, this is the last year of the warm homes deal. Certainly it is the last year of the current funding.

John Farquhar Munro: I am not sure about how we could regulate the electricity charges. After all, as we have heard, two or three tariffs operate on the various sites around the country. However, as far as heating is concerned, we need to draw a distinction between mobile homes and static caravans. The Eaga Partnership has already installed heating systems in static caravans, so a precedent has been set in that respect. If the petitioner is referring to mobile homes, that is another quite difficult issue.

The Convener: It might help if I point out that the petitioners are probably referring to all on-site accommodation and support. Each home is allocated a block where residents can cook and wash; however, no standards have been set for the conditions of those blocks. They are usually made of breezeblocks, have inadequate heating and are freezing cold.

The Equal Opportunities Committee's report highlighted a host of similar issues. For example, there is no requirement to provide disabled access to the blocks, which do not have to meet the same standards or regulatory requirements that a home or public building would have to meet. One important issue is the cost of heating, because in most cases the card that Gypsy Travellers have to purchase from the site manager is set at a higher tariff than someone would normally pay for their electricity.

The petitioners are concerned about the progress of the matter. The Equal Opportunities Committee continually monitors the issues raised in its 2001 report and reviews what is being done about its recommendations. The petitioners have submitted the petition partly to ask for that monitoring to continue and for the issue of the cost of heating to be addressed. Obviously progress has been slow, if not non-existent.

Jackie Baillie: I am trying to jog my memory, but as I recall the current minister Margaret Curran visited some Gypsy Traveller sites after the report was published to address some of the issues that it raised. As a result, I would think that it would be helpful to write in the first instance to the minister. Perhaps we should also write to COSLA to find out why some local authorities can manage to provide power cards that provide electricity at domestic rates while others seem unable to do so. We should raise that practice issue with COSLA and certain policy issues with the minister.

Rosie Kane: I believe that the power cards in question, no matter whether they provide electricity at commercial or domestic rates, are still not the same power cards that are available to domestic consumers who live in houses. I believe that, therefore, people cannot go to the local shops or garage to purchase the cards; there is a different, more difficult and sometimes out-of-hours way of getting them. It is not only about going from commercial rates to domestic rates; it also about the accessibility of the cards so that people can get power. Perhaps we should ensure that we take the matter to that extreme.

The Convener: Are members happy that we write to the Executive and COSLA as Jackie Baillie suggested?

Helen Eadie: We have not yet suggested that we also write to Energywatch, the independent watchdog for gas and electricity consumers, so that we can get its observations too.

The Convener: Will we take up John Scott's suggestion that we contact Eaga to get its perspective?

Rosie Kane: Did we mention the Travellers Site Managers Association?

The Convener: We would contact it through COSLA, given that COSLA is responsible for it. COSLA might include a response from the association. We can assess that when we get a reply from COSLA. Are members happy with the suggestion?

Members indicated agreement.

Freemasons (Membership) (PE761)

The Convener: Our next petition is PE761, from Hugh Sinclair. The petition calls on the Scottish Parliament to ensure that members of the Public Petitions Committee and clerks to the committee are required to declare membership of the freemasons and other secret societies. The petition is prompted by the petitioner's concerns that the previous two petitions on the subject of freemasonry—PE731 and PE739—have, in his view, been dismissed by the committee. He argues that it is an offence to natural justice if

there are undisclosed masonic attachments within the committee.

The committee agreed to take no further action on PE731 and PE739 earlier this year on the basis that the general issues raised had been addressed within the context of the Justice 2 Committee's recent and full consideration of the matter.

The procedural mechanism for implementing the petitioner's request in relation to members would be for the Parliament to amend the code of conduct following a recommendation from the Standards Committee. The Standards Committee is consulting on proposals for legislation to replace the rules on the registration and declaration of MSPs' interests. Responses are requested to the consultation paper regarding those proposals, which includes a section on non-pecuniary interests, by 30 September 2004. It would be open to the Parliament to require that officials advising the Public Petitions Committee who are connected with freemasons or other secret societies register or disclose that connection, perhaps through amending the terms and conditions of their employment.

Helen Eadie: Given that that consultation is taking place, perhaps we could write to Hugh Sinclair and suggest that he might like to make a submission to the Standards Committee clerk and ask for the matter to be taken into consideration in the work that the committee is doing.

Rosie Kane: I declare my non-membership of the freemasons, but then, that is obvious, given that I am a woman.

Helen Eadie: You could be a member of the order of the eastern star.

Rosie Kane: I declare my non-membership of that as well.

The Convener: Does everyone agree that what Helen Eadie suggested is the best course of action for us to take on the petition?

Members indicated agreement.

The Convener: Once we have done as Helen Eadie suggested, the petition would in effect be closed, because we have considered it and decided a course of action from which there is no comeback. Once the matter goes to the Standards Committee, there would be nothing for it to feed back to us.

John Scott: We could possibly refer the petition to the Standards Committee, not necessarily with any comment from us, and thereafter close it.

Jackie Baillie: There is a wider principle in the petition, which it is appropriate that the Standards Committee considers. I recommend that we pass the petition to the Standards Committee because it is not just about the Public Petitions Committee; it

goes wider than that. Members of the Standards Committee are the best people to deal with the petition. I propose that we close the petition now.

The Convener: Do members agree with that?

Members *indicated agreement.*

The Convener: I suggest that we take a five-minute break before we consider our current petitions.

10:59

Meeting suspended.

11:09

On resuming—

Current Petitions

The Convener: The bell has gone off again—I do not know whether I should say, “Seconds out, round 2,” but we will go on to agenda item 3, which is on current petitions.

The first current petition on the agenda is PE500. Dennis Canavan has informed me that he would like to be in attendance when we discuss the petition, as he has a long-standing involvement with it. He has advised me that he has another commitment this morning and that he will be here as soon as he can. Do members agree to defer consideration of PE500 until Dennis Canavan joins us?

Members *indicated agreement.*

Abandoned Properties (PE602)

The Convener: The second current petition is PE602, on the recovery of abandoned private sector properties. The petitioners call on the Parliament to take the necessary steps to decentralise to local authorities the previously centralised authority that the Scotland Office held under planning legislation to recover abandoned private sector properties.

At our meeting on 21 January 2004, the committee considered responses from the Executive and the Greater London Authority and agreed to write to the Minister for Communities, COSLA, the Empty Homes Agency, Shelter and each local authority to ask for views on the issues that are raised in the petition. Responses have been received from the minister, the Empty Homes Agency, Shelter and 20 local authorities. Do members have any comments on the responses and on what to do with the petition?

Jackie Baillie: The responses show that the matter is complex. However, given that a number of local authorities say clearly that they have the necessary powers, the issue becomes more about whether those powers are used, whether the issue is a priority for authorities and whether they have sufficient resources. Given that sufficient powers already exist, the creation of another set of powers and duties would not necessarily have the desired effect. Notwithstanding that, it might be worth passing the petition to the Minister for Communities in the context of the emerging private sector housing bill, which is part of the legislative programme. We should ask the Executive to revisit the issue in the light of that proposed legislation and then close the petition.

Helen Eadie: I support that suggestion. We should get clarity from the minister. Empty properties in my constituency have caused concerns. One difficulty is that some of the property owners who are involved are based not in the UK, but abroad. That creates another set of issues. It would be helpful to write to the minister to say that there is continuing concern about the matter. I support the principle behind the petition.

John Scott: Given the number of responses that we have received, it seems that not many people regard the matter as a burning issue. Therefore, I do not feel that local authorities have made the case for more powers. The lack of response from COSLA speaks for itself. I am content to pass the petition to the minister, although she has said that the Scottish Executive has no plans to review the mechanisms of compulsory purchase orders and I think that that judgment is perfectly correct.

Helen Eadie: John Scott is not right: we have not really measured the extent of the problem. All sorts of problems can be caused when owners abandon their properties. For example, in the winter, freezing pipes can cause floods in neighbouring properties. It would be presumptuous to say that there is no problem—if people petition the Parliament, there clearly is a problem. It is important that we act as a conduit to the minister to tell her that there is a problem. The problem might not have the same scale as others that the Parliament has to address, but the petitioners, many of my constituents and I are concerned. By all means, we should close the petition if the minister will take the issue on board. The minister needs to be aware that concerns exist so that she can take them into her calculations in considering future legislative priorities.

The Convener: I am worried that if we write to the minister and close the petition, we may deny ourselves the opportunity of getting a response. If the minister writes back simply to note our letter and to refer us to her previous response, we could close the petition, all well and good. However, it might be worth leaving the petition open until we receive a response from the minister, at which point we can consider what to do. Do members agree to that suggestion?

Members indicated agreement.

Domestic Abuse Policy (PE644)

11:15

The Convener: The next petition is PE644, which concerns Government policy on domestic abuse. The petitioner calls on the Scottish Parliament to urge the Scottish Executive to

develop its current gender-based policy on domestic abuse to include all other forms of abuse that take place in a domestic setting.

At our meeting on 3 March 2004, the committee considered a response from the Scottish Executive and agreed to invite the petitioner to comment on the response. In his response, the petitioner states:

“having taken the view that the Parliament is unlikely to be able to effect a change to this position we would like to withdraw our petition”.

The petitioner's wish appears to be based on correspondence from the Deputy Minister for Communities, which, he argues,

“indicates a misunderstanding of the law, is contradictory from letter to letter and indicates clearly that they have no intention of moving to a more inclusive domestic abuse strategy.”

After being advised that there is no procedure for the withdrawal of a petition at this stage, the petitioner has submitted a report on the alleged prevalence of domestic abuse among lesbians and gay men. The report has been circulated to members electronically. Do members have any comments on the petition?

John Scott: I have a deal of sympathy with the petitioner. It may be that the responses quoted are only partial and have been taken out of context, but it would seem an unsatisfactory resolution to the petition and to the petitioner's concern if he felt that he had to withdraw it because the responses that he has received are apparently contradictory. We should go back to the minister, seek clarification of the responses, point out that the petitioner regards them as contradictory and ask her to address the criticisms.

Jackie Baillie: I take a slightly different point of view. The petitioner has indicated that he wants to withdraw the petition and, although there is no mechanism for doing so, we should accede to his request. I do not find the statements that are quoted in the letter to be contradictory, because they could have been taken out of context. When ministers decide where their resources will go, they end up having to prioritise. Several studies into the scale of domestic abuse have indicated that the problem is predominantly about men abusing women. Statistically speaking, that is the largest proportion of domestic abuse, so it is perhaps legitimate for ministers to decide to prioritise their resources in that way.

John Scott: I would be happy if the minister were to explain that position as eloquently as you have done, Jackie. Let us give her that opportunity and close the petition thereafter if we see fit.

The Convener: My concern is that the committee should try to ensure that the petitioner is involved at every stage of the petition. If we

were to take the petition out of the petitioner's hands, we would be in danger of saying that the petition does not belong to him and I am not sure that we would want to do that. There may still be some unanswered questions on which clarification would be helpful to the committee. However, if the petitioner says that he wants to draw a line under the petition, perhaps we should, as Jackie Baillie suggests, comply with that wish. Under the rules, the petitioner cannot withdraw the petition, but we can close it and say that we accept his view that it should go no further.

Helen Eadie: I agree with the proposition that, wherever possible, we should try to accede to the petitioner's wishes. We cannot do that in every case—there are sometimes extenuating circumstances—but it is in our powers to do so with this petition and we should agree to the suggestion that you make, convener.

Campbell Martin: Do we know whether the petitioner was aware that the committee could ask the minister to clarify the situation? The petitioner seems to want to withdraw the petition because he thinks that that is the end of the matter and that he will not get a further answer. Perhaps if we were to ask the minister for clarity, the petitioner would look on that favourably.

The Convener: I am happy to let the clerk answer that question, but no petition comes to us without there being exacting dialogue and discourse between the clerks and the petitioners so that the petitioners are fully aware at all stages of what can be done with the petition and where it is being dealt with. I would be very surprised if the petitioner was not aware of the process, but I will let Jim Johnston answer that.

Jim Johnston: My understanding is that the petitioner is fully aware of the process and the options that are open to the committee.

Campbell Martin: But he still wishes to end the matter.

Jim Johnston: Yes.

The Convener: Are members happy that we close the petition?

Members indicated agreement.

Shop Workers (Safety) (PE677)

The Convener: Petition PE677 is on safer shopping partnerships. The petitioners call on the Parliament to work in partnership with retailers, the police and local authorities to improve the safety of shop workers by promoting and resourcing safer shopping partnerships.

At our meeting on 17 March 2004, the committee considered a response from the Executive stating that proposals for new initiatives

in that area were being drawn up and that a short-life steering group was expected to report to ministers before the end of March. The committee agreed to write again to the Executive, asking it to advise the committee of the outcome of its deliberations and the likely timescale for the implementation of its proposals.

The latest response from the Executive states that a draft paper has been produced for consideration by ministers, who are expected to make an announcement on how they propose to take matters forward in due course. A ministerial announcement was made yesterday and copies of the relevant Scottish Executive press release have been circulated to members. On that basis, I suggest that the committee might wish to take no further action on the petition. Do members agree with that?

Jackie Baillie: Yes. I must say that the timing is excellent, convener. I commend the minister for that.

Helen Eadie: I am pleased about the outcome. I visited a couple of local stores during the summer recess and heard about the extent of the problems, some of which were quite horrific. I am therefore pleased that progress has been made.

The Convener: Are members happy to close the petition?

Members indicated agreement.

Gulf War Syndrome (PE709)

The Convener: Petition PE709 calls on the Parliament to initiate an inquiry into the health aspects and other devolved issues relating to Gulf war syndrome.

At our meeting on 17 March 2004, the committee agreed to seek the Executive's comments on the petition and, in particular, to ask whether it has any plans to conduct an inquiry of the nature proposed by the petitioner. We also asked for its views on the accessibility of medical records and the adequacy of treatment of Gulf war veterans in Scotland.

The Executive had yet to respond to the committee when we considered the petition again on 29 June 2004. At that meeting, we agreed to write to the Minister for Health and Community Care expressing our concern about the Executive's delay in responding and inviting him to respond during the summer recess. A response from the minister that appends a more detailed commentary from the Ministry of Defence has been received. The minister states that he would be willing to look into any cases of alleged shortcomings in NHS treatment offered to veterans in Scotland or any evidence that arrangements for prioritising the treatment of war pensioners are not being followed by NHS boards.

The MOD highlights the fact that it is working with the Medical Research Council to determine how further research might be taken forward and it describes how it plans to consult veterans and other stakeholders. Are there any comments?

Helen Eadie: I am pleased to see the response from the Minister for Health and Community Care. I welcome the fact that he has responded in such a positive way. It has also been helpful to see the response from the MOD. We should perhaps ask what the petitioners think and discuss their response at a future meeting, but I am encouraged and heartened by what I have seen to date.

Rosie Kane: There are a couple of things in the response from the MOD that I am concerned about. I want to put on the record my view that the condemnation of Alexander Izett after what he and his comrades gave for the MOD is a wee bit unpalatable. I see from the papers that the Parliamentary Under-Secretary of State and Minister for Veterans will be visiting Scotland soon. It would be lovely to have a word with him about the issue. Can we do that?

The Convener: Ministers from Whitehall have been invited to committees before and there has been dialogue about whether they can be forced. I think that they can be invited, but there are no powers to force them to come—that seemed to be the answer at the time. For what purpose would we bring the minister here?

Rosie Kane: I would like to hear from the Whitehall minister and I would like him to hear from the committee.

Jackie Baillie: If I thought that major issues were not being dealt with, I would entirely agree with making that request. However, there are two reasons why we should not do so. First, we could discuss the matter with our own minister, Mary Mulligan MSP, who is a member of the veterans task force. Secondly, the petition raises a specific health issue rather than the broad-brush issues that the MOD has kindly addressed. The Minister for Health and Community Care has responded positively on the health issue by asking for examples so that he can do something about it. His letter also states that he has reminded the NHS across Scotland that war veterans should be treated as a priority. We should inform the various associations and the petitioner, Mr Izett, about the positive response that we have received on the health issue and ask them for their comments.

Rosie Kane: The UK Government's response states that there is no evidence for the multiple symptoms among the veterans, but it does not examine whether those symptoms were caused by the cocktail of drugs that was used. The war veterans are said to be a priority, but it has taken 13 or 14 years to get to this stage. It is time that

this Parliament called on that Parliament to ask Dr Lewis Moonie exactly what is going on, why the situation has gone on so long and why we cannot get a positive outcome sooner.

The Convener: I think that that would be entirely appropriate. We could write to the Whitehall minister to ask those types of question within the context of the petition, so Rosie Kane's request is not unreasonable. That would not mean inviting the minister to come here, but we could take up those questions with him.

Rosie Kane: He will be in Scotland soon anyway. However, I would certainly like to ask him those questions by some means.

The UK Government's response also mentions that Gulf war veterans are encouraged to attend St Thomas' hospital in London. Are all Gulf war veterans encouraged to go there or are there similar facilities for veterans in Scotland?

The Convener: The issue was not raised when we discussed the matter previously. The petition is about the health impact of Gulf war syndrome. We need to keep focused on that.

Rosie Kane: Hospitals are a health matter.

The Convener: The letter from the Minister for Health and Community Care highlights what the NHS in Scotland can do about the health impact of Gulf war syndrome. We can infer from that that the veterans are treated by the NHS in Scotland. Rosie Kane's question about the contents of the drugs cocktail and some of that technical information is a different matter, although it is still relevant to the petition—

Rosie Kane: The UK Government's response mentions those details.

The Convener: We can deal with the petition in two ways. We will act on the petition by taking up the issue with the MOD about the drugs that were given to the veterans. Equally, we will take up the suggestion made by Jackie Baillie and Helen Eadie of writing to the petitioner and the others who were engaged in the initial circulation of the petition to ask them for their comments. Both things are not incompatible. Are members happy that we do that?

Members indicated agreement.

Skye Bridge Tolls (PE727)

The Convener: Petition PE727 calls on Parliament to urge the Executive to order the immediate suspension of tolls on the A87 between the Isle of Skye and mainland Scotland.

At our meeting on 28 April 2004, the committee agreed to write to the Executive to seek confirmation of the timescale for ending the toll

regime and to ask the Executive to respond to the points that were raised in the submission of Professor Poustie of the University of Strathclyde, which the petitioner supplied. The Executive's response says that the end of the discredited toll regime on the Skye bridge is likely to be achieved by the end of this year. It also states:

"the agreed costs of £23.64 million at 1991 prices have not yet been recovered".

For the committee's consideration, the petitioner has supplied further evidence, which has been circulated with members' committee papers. Have members any comments?

Helen Eadie: I was heartened when the minister responded to an oral question in the chamber by announcing that there would be a review of all toll bridges in Scotland. He recognised that the Scottish Executive had given a commitment. Progress has been made and we should welcome the minister's position.

11:30

John Scott: I, too, welcome the minister's position and the Executive's commitment to end tolls by the end of the year. The end of the year is not very far away, so has a date for ending the tolls been fixed? If it has not, perhaps we should seek such a date.

Helen Eadie: The information comes as a surprise to me—I did not realise that tolls would end by the end of the year.

John Scott: It is a surprise to everyone, but it is a welcome surprise. It would be nice to know what the set date will be.

John Farquhar Munro: Members will recall that we agreed at a previous meeting that the Executive was moving to do away with the toll regime and that it had been suggested to us that that would happen by the end of the year. We are still on course to achieve that. If we weaken the argument or lengthen the discussion by incorporating other elements into our aim of getting rid of the tolls, we will prolong the issue beyond the end of the year. I would not be happy with that; we have a commitment and we should hold to it.

The Convener: Are you happy with the commitment that has been made?

John Farquhar Munro: The petitioner has presented new evidence on a royal charter that has been through the courts in the past few days.

John Scott: My suggestion was not that we should consider new evidence, but that we should ask a simple question about the date on which the Executive's commitment will be honoured. That is the issue that concerns most people.

Helen Eadie: That is the question, because the Executive's letter states:

"The second phase will include an examination of the broader issues, relating to the management, operation and maintenance of the tolled bridges. This will also include an assessment of how the tolled bridges relate to the new regional and national transport arrangements. This phase should be completed by summer 2005."

I do not know where the reference to the end of 2004 comes from.

The Convener: The letter also states that during a debate on 3 June the Deputy First Minister

"restated the Executive's commitment to ending the discredited toll regime on the Skye Bridge. During that debate he stated the Executive's belief that we can achieve our goal by the end of this year."

I do not think that the minister's commitment to end the Skye bridge toll regime by the end of the year is changed by the fact that that will happen within the context of a broader review. John Scott is asking whether it will happen on 31 December or on a date prior to that.

Helen Eadie: It may have meant one year from when the Deputy First Minister made the statement.

John Farquhar Munro: The review of the wider issue of tolls throughout Scotland will be completed by the summer of 2005.

John Scott: Unlike Helen Eadie, I am not suggesting that we consider the wider review of tolls. I am seeking merely a one-line answer.

Jackie Baillie: We are at cross-purposes. The letter from the Executive states:

"The first phase, which is beginning now, will assess all existing tolls including the way in which potential changes to tolls could help achieve our environmental and economic objectives ... We expect this phase to be complete within 3 months."

In other words, the first phase relates to all tolled bridges.

In the final sentence of the next paragraph of the letter, it is made clear that during the debate on 3 June, the minister

"stated the Executive's belief that we can achieve our goal by the end of this year."

To my mind, that means 31 December. Do we need further clarification?

Campbell Martin: John Scott hit the nail on the head. There are other issues that we could discuss and debate, but we need a simple answer to a simple question: when will tolls be removed from the Skye bridge?

The Convener: I see no harm in our asking that specific question. I imagine that if the Executive can provide a date we will get the answer that we

are seeking. Do we agree to put the question to the Executive in writing?

Members *indicated agreement.*

The Convener: We will await the minister's response.

Egg Stamping Legislation (PE733)

The Convener: PE733 concerns guidance on legislation regarding egg stamping. The petitioner calls on Parliament to urge the Executive to provide guidance to egg producers in Scotland on relevant legislation relating to egg stamping, and asks whether that is compatible with the provisions of the Council of the European Union's decision 94/371/EC.

At its meeting on 26 May, the committee agreed to seek the Executive's views on the issues that the petition raises, in particular the compatibility of the Council regulation on egg stamping and the European Commission regulation on the prevention of the washing and cleaning of eggs. We also asked the Executive whether it plans to produce guidance on the new egg-stamping requirements for egg producers. We have received a response from the Executive, which states:

"The Executive does not consider the two Regulations to be incompatible."

The response goes on to say that

"The Executive has produced an explanatory leaflet covering all aspects of the EC Egg Marketing Standards Regulations".

It concludes:

"The Executive will continue to work closely with individual producers and their representative organisations on all aspects of egg production."

The petitioner has written to the committee to request an opportunity to comment on the Executive's response and to suggest that the committee obtain a copy of a report on salmonella by Professor Heather Dick. I invite members' views on the petition.

Jackie Baillie: For clarification, does the petitioner seek to come back before the committee or does he want to comment in writing?

The Convener: He wants to comment in writing. I think that the purpose of his letter to the committee was to refer us to the research paper.

Jackie Baillie: I thought that our normal practice was to encourage petitioners to give us their views on the Executive's responses as a matter of course.

Jim Johnston: The normal practice is for the committee to consider the response first and then to decide whether to invite the petitioner to comment.

John Scott: I welcome the Scottish Executive's response. The situation in relation to the petitioner's question seems to be quite clear cut: the two regulations are not incompatible. I am happy with that response. I suspect that the petitioner is trying to raise a different issue about salmonella, which was not in the petition. If he thinks that there is a problem with the compatibility of the regulations, perhaps we should allow him to tell us about that, but the Executive's response is pretty clear.

The Convener: Are members happy to close the petition?

John Scott: No. We should ask the petitioner why he thinks the Executive is wrong; the Executive's position does not appear to be wrong.

The Convener: Do members agree to give the petitioner the opportunity to respond?

Members *indicated agreement.*

Houses in Multiple Occupation (PE736)

The Convener: PE736 calls on the Scottish Parliament to urge the Scottish Executive to make the necessary legislative changes to ensure that the impact on locality is taken into account when licenses are granted for houses in multiple occupation.

At its meeting on 12 May, the committee agreed to write to the Executive to seek comments on the issues that the petition raises and to invite the City of Edinburgh Council, Glasgow City Council, the University of Edinburgh accommodation services and the Convention of Scottish Local Authorities to provide details of their experiences in the matter. In its response, the Executive said that revised guidance on HMO licensing would be published in July 2004 and would take account of the results of its review of the system, which was completed in March 2003. The Executive's response also states:

"if there is a need for control in a particular area, the Executive believes that the planning system is the correct mechanism for taking into account the impact on the locality of any development. The Scottish Executive has no plans ... to constrain local authorities' discretion in this regard."

The City of Edinburgh Council states in its response that there will be a review of

"all aspects of planning policy in relation to HMOs, with specific consideration to be given to the introduction, in Edinburgh, of a percentage threshold for each area."

The response from the University of Edinburgh accommodation services states that it is the university's contention that HMO density limits are not required. The response includes copies of letters from Shelter Scotland and the Chartered Institute of Housing in Scotland, which were

published in the *Edinburgh Evening News* on 7 February 2004 and appear to oppose proposals to restrict the number of houses in multiple occupation in Edinburgh. The Edinburgh University students association submitted a paper on the issue—although it was not formally asked to respond to the petition—which has been circulated with committee papers. Do members have comments on the petition?

Jackie Baillie: I agree entirely with the Executive. It is a planning matter and the impact on any given locality of HMOs can be determined through the planning system. That is evidenced by the fact that Glasgow City Council has managed to do what the petitioners want to have done in Edinburgh. I do not think that there is a case for more powers or regulations; they exist if a local authority is minded to use them. Given that it is therefore a matter for the City of Edinburgh Council—which appears to be taking things forward, following a request from the HMO working group in the city—I recommend that we take no further action on the petition.

Helen Eadie: I agree, but with the caveat that we should ensure that we pass a copy of the report to the City of Edinburgh Council and say that we welcome the progress that it is making on behalf of the petitioners. It is important to underpin the work that was started off by the petitioners, and it is to the petitioners' credit that they have highlighted an important issue.

The Convener: Is it agreed that we close the petition at that?

Members indicated agreement.

Scottish Transport Group Pension Funds (PE500)

The Convener: Unfortunately, Dennis Canavan has not made it to the meeting, and we have to deal with PE500 before we go on to item 4. I hope that Dennis Canavan will arrive while we are considering it, but we have to address it.

The petition concerns increased payments to pensioners from the Scottish Transport Group pension fund. The petitioners call on Parliament to urge the Scottish Executive to increase at the earliest possible date the amount that is on offer to former members of the Scottish transport group pension funds, so that they receive maximum benefit from the pension fund surplus. The petition is prompted by the petitioners' concerns about the continued failure to make payments to former members of the Scottish Transport Group pension fund from the pension fund surplus, despite the fact that it is 10 years since privatisation of the Scottish Bus Group.

At our meeting on 9 June 2004, the committee considered another response from the Minister for

Transport, along with comments from the Inland Revenue. The committee expressed a number of concerns relating to the minister's response and agreed to invite further comment from him, particularly in relation to interest on late payments and a final timescale for the payments from the surplus funds that remain outstanding. The committee agreed to ask Her Majesty's Treasury whether it is satisfied that there has been parity in the treatment of Scottish Transport Group pensioners and National Bus Company pensioners. In addition, the minister issued a news release on 6 August 2004 in which he states:

"A third and final round of payments due to members will be made by the end of the year."

Do members have any comments?

Jackie Baillie: I think that the Minister for Transport will be very busy at the end of this year, given everything that is likely to happen. My inclination is to keep the petition open until those payments are made, simply because of the length of time that has elapsed. I am not suggesting for a minute that I doubt the Executive's word on that, but I feel that it would be unwise to close the petition at this stage.

The Convener: Are members generally happy with that?

John Farquhar Munro: A substantial amount of the pension fund has been paid out to members. The current delay has come about because quite a number of individuals and families who would benefit from the fund cannot be traced, so the pension fund managers are sitting with quite a substantial amount until they can ensure that the recipients or their relatives are no longer around. Once they have determined that, the rest of the money will be disposed of to the existing pensioners.

The Convener: I think that something to that effect has been decided. There are issues about non-take-up of moneys that the Scottish Public Pensions Agency knows should have been distributed to people. However, while that money lies in the pension fund, it accrues interest, which means that the pool of money is actually increasing as it lies there. There is a host of issues relating to that, so I tend to agree with Jackie Baillie that the issue will probably have a bit to run before it is resolved. However, we could ask the minister to keep us updated so that, if there are any further developments, we get the opportunity to consider them, which will allow us to keep the petition open pending more information. Is that agreed?

Members indicated agreement.

Proposed Petitions

Sheriffs (Appointment)

11:44

The Convener: The first proposed petition is on the appointment of sheriffs. A proposal has been submitted for a petition that calls for a review of judicial appointment procedures. As members have no comments on the proposed petition's admissibility, do they agree that it is inadmissible because it appears to relate to a personal legal matter?

Members *indicated agreement.*

Legal Remedies

The Convener: The next proposal is for a petition that calls for a full inquiry into why the Court of Session administration is refusing remedies. As members have no comments on the proposed petition's admissibility, do they agree that it is inadmissible because it appears to relate to a personal legal matter?

Members *indicated agreement.*

Public Petitions System (Promotion)

11:45

The Convener: The clerks have circulated an approach paper on promoting the public petitions system, to which a report of the committee event that was held in Dundee on 14 June is appended. Given the positive feedback from attendees at that participation event, the committee is invited to consider holding similar events with the aim of covering each of the eight Scottish parliamentary regions in the current session.

Do members agree to that approach? If so, do they agree to submit to the conveners group a bid for funding for the event in Greenock? Do members agree to delegate authority to the clerks to develop the arrangements, which include timing of the event? It is now unlikely to take place on 29 November, because a suitable venue is not available. Do members also agree the report of the committee's Dundee event, and agree to publish that report on the committee's web page and circulate it to all attendees?

Jackie Baillie: Yes, yes and yes—I think that you asked three questions, convener.

The Convener: Will we go ahead with that?

Members *indicated agreement.*

Resubmission of Petitions

11:46

The Convener: The clerks have circulated a paper on resubmission of petitions. Do members agree to the attached draft call for evidence with a closing date for responses of 26 November 2004, and agree that it should be published on the committee's web page?

Members *indicated agreement.*

The Convener: That ends the meeting. I thank members for their participation.

Meeting closed at 11:47.

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