

PUBLIC PETITIONS COMMITTEE

Wednesday 29 September 2004

Session 2

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PUBLIC PETITIONS COMMITTEE

14th 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)
*Rosie Kane (Glasgow) (SSP)
*Campbell Martin (West of Scotland) (Ind)
*John Farquhar Munro (Ross, Skye and Inverness West) (LD)
*Mike Watson (Glasgow Cathcart) (Lab)
*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
Phil Gallie (South of Scotland) (Con)
Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Peter Peacock (Minister for Education and Young People)

THE FOLLOWING ALSO ATTENDED:

Susan Bannatyne
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
John Duffy (Fire Brigades Union Tayside)
Norman Dunning (Enable)
Linda Fabiani (Central Scotland) (SNP)
Karen Gillon (Clydesdale) (Lab)
Janis Hughes (Glasgow Rutherglen) (Lab)
Libby Logan (Fire Brigades Union Tayside)
Jim Malone (Fire Brigades Union Tayside)
Betty Mauchland
Margaret Mitchell (Central Scotland) (Con)
Nicola Orr
Judith Philip
Mr Keith Raffan (Mid Scotland and Fife) (LD)
Mr John Swinney (North Tayside) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Wednesday 29 September 2004

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

The Convener (Michael McMahon): Good morning, everyone, and welcome to the 14th meeting of the Public Petitions Committee in this session. We have a particularly busy agenda this morning, but we will manage to get through it in due course. I have received no apologies, although John Farquhar Munro has said that he may be a bit late.

Interests

10:00

The Convener: Item 1 is a declaration of interests. I welcome Sandra White back to the committee after a short sojourn in other places. Sandra, do you have any interests to declare?

Ms Sandra White (Glasgow) (SNP): I have no interests to declare. I am very happy to be back. It is like a re-admission rather than coming back. Thank you very much.

New Petitions

Fire Control Rooms (PE765)

10:01

The Convener: Item 2 is consideration of our new petitions, the first of which is PE765 from Jim Malone, on behalf of the Fire Brigades Union Tayside. The petition calls on the Parliament to urge the Executive to ensure the retention of eight fire control centres in Scotland. Jim Malone is present to give evidence in support of the petition, together with Libby Logan and John Duffy. Welcome to the committee. You have three minutes in which to make a verbal submission, after which we will ask questions.

Jim Malone (Fire Brigades Union Tayside): On behalf of the FBU Tayside, I thank the committee for considering our petition for the retention of the eight fire control centres within the eight brigade structure in Scotland. Emergency fire control centres provide a highly skilled, experienced work force whose talents have been recognised by Audit Scotland as providing the best value-for-money public service in the United Kingdom. Our petition, which is in response to the Scottish Executive's much-maligned Mott MacDonald report, emphasises the level of disquiet that exists among all fire service stakeholders.

Mott MacDonald has put together a package of exaggerated savings, has underestimated costs and has failed to understand the true nature and range of the work of emergency fire control centres. Indeed, we believe the report to be so dangerously deceptive and inaccurate that the Executive should acknowledge the contents of previous, unbiased reports, such as the UK pathfinder report "In the Line of Fire" and "The Future of the Fire Service in Scotland". Those significant reports supported the retention of the current number of brigades and emergency fire control centres and, significantly, had the support and co-operation of all fire service stakeholders.

Our petition asks the committee to support the current arrangement of the eight brigades and emergency fire control centres, as they provide outstanding service for the people of Scotland. If the Mott MacDonald report were implemented and emergency fire control centres were centralised, regionalised or merged into one, two or three centres, there would be a reduction in the number of emergency fire control centre operators handling an increased volume of calls, resulting in a reduction in the intervention time window. The shorter the time from the emergency occurring and the call being received and handled, to the arrival of sufficient resources to undertake emergency

operations, the longer the window. Any reduction in the intervention time window would dictate that more people would die in fires and other emergencies. That is contrary to the wish of the Executive to deliver true improvements to fire service delivery.

Mott MacDonald acknowledges the diversity and uniqueness of Scotland's culture, geography and language, yet it totally disregards the importance of local knowledge. Front-line firefighters rely on pinpoint accuracy when attending emergency incidents, and emergency control centre operators use local knowledge to direct appropriate resources to each incident, using fire survival guidance to save lives time and again. Scotland's emergency fire control centres should be supported by this committee. The fire service continues to improve, develop, modernise and adapt to new technologies, delivering best-value service to its communities. Please support our petition and help us in our fight to provide an improved fire service in Scotland.

The Convener: We are joined by John Swinney, who would like to add a few words.

Mr John Swinney (North Tayside) (SNP): The day before the worst of the flooding problems that we experienced in Tayside in early August, I visited Tayside's fire control centre. I was struck by two things. First, the significance of the depth of local knowledge that was retained by the people who were operating the fire control centre that day—in a large rural area, such as the one that I represent, that is of fundamental importance. Secondly, to my layman's eye, the intensity of the pressure under which those people were operating at a time of high demand on the service was quite beyond comprehension. Based on what I saw that day, I believe that, if a number of incidents happened throughout Scotland, the strength and speed of the response would be diminished if there were only one, or even three, fire control centres in the country.

I support the petition. Without misquoting anyone, it is fair to say that, although the FBU is presenting the petition today, there is broad political and stakeholder support for the position that has been outlined this morning.

Ms White: I am concerned about the loss of local knowledge that might result if there were only one, or even three, fire control centres. I am also concerned about the time that it might take each fire brigade to travel to incidents if there were centralised fire control areas, given the geography and, perhaps, the bad weather.

Perhaps I could offer an illustration of the sort of problem that has been described. When my car broke down on the Erskine bridge after the Automobile Association moved down south, the

person I talked to did not even know where the Erskine bridge was. Do you have anything to add to that?

Libby Logan (Fire Brigades Union Tayside):

One of the problems of having a centralised control centre would be the difficulty in ascertaining where the person was. Many addresses are similar and when someone is in a panic, as they often are in a fire situation, they might not give you the perfect address. In a larger control area, the operator would have to do further interrogation, which holds up the mobilisation of the service, which means that it will take them longer to get to the scene. In a fire situation, the sooner the service arrives, the better.

Local fire control centre operators also understand the distances that appliances might have to travel. For example, they will know how far it is from Pitlochry to a road traffic accident somewhere on the A9. An operator in a bigger control centre could not possibly retain local knowledge about everywhere in the area that they deal with and the computer would not necessarily make the right decision.

John Scott (Ayr) (Con): You mentioned the UK pathfinder report. Could you comment on its findings compared to those of the Mott MacDonald report, which you say is discredited?

It strikes me that operators in a central fire control room might have difficulty understanding regional accents. Someone from Aberdeenshire might not understand a Glasgow accent and vice versa. In that regard, it is worth noting that, when people are in a panic, as they would be in a fire situation, they tend to go back to their local dialect. I would be interested in your comments on that.

John Duffy (Fire Brigades Union Tayside):

The Government-sponsored reports that we alluded to in our statement, the most recent of which was published in 2002, have said that the status quo—eight brigades and eight fire control centres—should be retained. We point out that, just two years after the most recent report, Mott MacDonald has completely changed the Executive's opinion.

I agree with your point about regional accents. In Scotland, people's accents and language are quite distinct. Gaelic place names are an issue, especially in the Highlands and Islands. Getting someone outwith a particular Highlands and Islands district even to understand such a name can be difficult and there are local nicknames for places that do not appear on the map. Such knowledge is passed down from generation to generation in a control room and it could not possibly all be recorded on a computer. There is a temptation to say that technology is the answer to

everything, but we simply could not programme in all the knowledge that the control operators keep.

John Scott: Have you any anecdotal evidence from your colleagues in the other emergency services on how the centralisation of their services is affecting the response time? I am thinking of the ambulance service in particular and I know that police response times are perhaps not all that the people who wait for a response expect.

Jim Malone: We distinguish between what we do and what the ambulance service and the police do, because fire control centres deal with every 999 call in the same way—the same attention and care is paid to each call. There is no prioritisation of calls, as happens in ambulance and police control centres. Prioritisation means that calls are left unattended. During the firefighters dispute, the same thing happened in the joint operating centres: 40 per cent of all calls received no attention. Fire service control centre operators answer every call with the same care and treat them all as being equally important. We are quite happy to put our record up against those of the ambulance service and the police control centres. We do not want to go down their road.

Jackie Baillie (Dumbarton) (Lab): The Mott MacDonald report has received wide criticism from several quarters. Very few people, including me, are persuaded that one control room would be adequate.

I want to test what you are saying against some of what the Justice 2 Committee has been hearing. People have talked to that committee about resilience and new dimensions work, which amounts to an expansion of what the fire service does. There is a recognition that some of the control rooms could be targeted or could crash. We have one major control room in Strathclyde, which handles 48 to 50 per cent of all calls in Scotland. If something happened to that control room, is there another control room that could cope adequately with the task of absorbing those calls? I do not think that there is.

John Duffy: The Strathclyde fire brigade area is bordered by four other fire brigade areas and any decision to share out calls would be determined by which area the work could be shared with. Such arrangements are already in place. During the flooding to which John Swinney referred, our brigade used resources from Fife, Grampian and Central Scotland fire brigades. There is a system in place at the moment.

In New York, after what happened on 9/11, the decision has been taken to move from having one central control room to having five of them, so the idea of putting all your eggs in one basket does not sit evenly with the concept of resilience.

Helen Eadie (Dunfermline East) (Lab): Along with Westminster colleagues, I visited FBU representatives in Fife to hear their representations. Will you expand on the significance of the new technology that you have for the taking of addresses from very distressed people? We were shown the integrated risk management plan—I think that that is what it is called—that you have on computer, which contains very detailed knowledge. I am not coming down on a particular side of the argument; I am trying to get at whether the new technology overrides some of the arguments that you are making. During my visit to the local fire brigade headquarters, I was shown that by pressing a button one could get detailed information to pop up.

10:15

Libby Logan: Operators need to be able to get the address out of the person in the first place, which can be very difficult to do in a panic situation. Often they need to ensure that they are hearing the correct address. Operators in a larger control room may not be aware of other possible spellings for that address. The technology is very good when it works, but people are needed to operate it. I am not saying that we cannot operate it, but the greater the choices that are available, the greater the possibility of a mistake.

Campbell Martin (West of Scotland) (Ind): What is your opinion of a Scotland-wide control centre? You mentioned difficulties with local accents and places that may not appear on maps. If a national control centre received a call reporting a fire at a place called Third Park cottages, which is a wee group of cottages that probably does not appear on a map, would it know that the site was within a mile of a nuclear power station?

John Duffy: I hazard a guess that it would almost certainly not know. In that situation, the control operator would need to spend a lot more time figuring out which brigade area was affected. At the moment operators occasionally come across addresses that they do not know and have to locate, but that would happen much more often in a national control centre. After working out which brigade area was affected, they would need to decide which was the nearest fire station and what response they should send. All of that takes up time. We refer to the intervention window, which is determined by the time from the call coming in to the fire engines turning up. If that time between call and response is increased, people's chances of surviving an incident are diminished. Whatever we can do to increase the intervention window benefits the caller, because they are the person trapped. The sooner the fire engines get there for them, the better. In a local control room,

where operators have local knowledge, far fewer supplemental questions are asked.

Mike Watson (Glasgow Cathcart) (Lab): I have a couple of questions about the attitude that you highlight in your papers about the Mott MacDonald report. You say that it did not consider the issue of return to duty, that it failed

“to understand the role of control rooms and the role of firefighters”

and that it failed to mention the skills of control room staff. I apologise for missing the start of your evidence, when you may have covered this point, but did the consultants meet the FBU when carrying out their survey? Did they ask you how things operate and take evidence from you? Did you submit written evidence to them?

Jim Malone: It is important to note that Mott MacDonald spent on average about 30 minutes in each control room in Scotland. The FBU produced evidence covering all the points that Mike Watson has mentioned. The Mott MacDonald report was published for England and Wales, but the Executive is implementing its recommendations. We do not think that the report takes into account the diversities in Scotland. Those are recognised at the start of the report, but they are not addressed in the findings.

Scotland is unique. Fire Brigades Union members and control room operators are looking to the Executive and the Parliament to show that uniqueness and to see that Mott MacDonald does not represent the people of Scotland or what happens in fire control rooms in Scotland. Fire control rooms in Scotland are unique, and we want to retain their diversity. We say that the report is much maligned, because every stakeholder who has appeared at meetings of the Justice 2 Committee that we have attended has spoken against Mott MacDonald, with one maverick exception. They have spoken in favour of the existing eight control rooms and brigades.

This is a resilient system that works. There has been no pilot and there is nothing to show that the Mott MacDonald recommendations will work if implemented. The current system works, and we are here to argue for it.

Mike Watson: But the views of Scotland, as it were, have not been identified in the report strongly enough to highlight such differences. Did you feel that the FBU—in Tayside and Scotland-wide—gave Mott MacDonald the information that would have allowed it to come to the conclusion that you are recommending now?

John Duffy: That kind of information would be openly available. We will speak to anyone about the future of the fire service. Information was certainly submitted to Mott MacDonald; however,

most of what appears in its report is simply a copy of its England and Wales review, which concluded that the service must regionalise. As a result, if it carried out the same review in Scotland and came up with any other answer, it would contradict what it said in its earlier report.

The FBU queried and objected to the choice of Mott MacDonald, but it was ignored and the decision was carried through. Mott MacDonald's report on Scotland is basically a photocopy of its England and Wales report and takes no account of our separate identity or the specific problems that we face.

Mike Watson: Did the Scottish fire brigades and fire boards represent Scotland's distinctiveness when Mott MacDonald invited them to do so?

Jim Malone: Their responses to the Fire (Scotland) Bill and the Mott MacDonald report have been as one. We feel that two or three boards might have been pushed in a certain direction. After all, boards that said that they did not want a system of three controls might not get one of them. In this respect, I am thinking in particular of Lothian and Borders and Grampian. We know that we had support in those authorities.

We feel that we should keep the system of eight brigades, because it works. In his evidence to the Justice 2 Committee, firemaster Williams of the Chief Fire Officers Association Scotland said that if the number of control rooms were reduced to three, two or one, resilience would be lost and the number of brigades would then have to be reduced to three, two or one. We are not simply arguing that the number of control rooms should be retained; we are arguing for the future of the service in Scotland.

Mike Watson: So management and staff in Scotland differ in what they would be prepared to accept at this stage.

Jim Malone: No. As the *Official Report* of the Justice 2 Committee shows, our management, the firemasters and CFOA fully supported the retention of the eight control centres alongside the eight brigades. At the moment, the command and control structure is one control for one brigade. That is how the system works.

Mike Watson: You might or might not be able to answer this final question. What is driving the Mott MacDonald report? Is it simply cost savings? After all, I have seen your figures comparing the fire service with the police and ambulance service.

Jim Malone: You are exactly right. The report is an Exchequer-run exercise to save money. However, as our witnesses pointed out in the Justice 2 Committee, the amount of money that Mott MacDonald says will be saved has been highly exaggerated.

Rosie Kane (Glasgow) (SSP): So is the conclusion that, because money has to be saved, time will be of the essence and that, ultimately, lives will be lost?

John Duffy: There will be a straight trade-off between costs and lives. Last year, the fire death rate in the UK increased. This is not the time to be making cuts in the fire service.

The Convener: Members have had the opportunity to question the witnesses. I now seek members' suggestions on what we should do with the petition.

Jackie Baillie: Given that the Executive will make a decision on this matter soon, and that the Justice 2 Committee has come to the end of its evidence taking, I wonder whether we should do a number of things. We should write to the Executive to indicate the concerns that have been expressed and send a copy of the petition to the Justice 2 Committee for its information. At a subsequent meeting, the committee will pull together the evidence that it has received and reach conclusions for its stage 1 report. As a result, it might find it useful to have the petition in front of it.

John Scott: I wonder whether it would make sense to suggest that we in Scotland commission our own report into the future of the fire service. I realise that we have not discussed that idea with the FBU representatives, and I do not want to reopen the discussion.

The Convener: Nor would I want to pre-empt what the Justice 2 Committee is doing.

John Scott: I am not aware of what the Justice 2 Committee is doing.

The Convener: We are considering the petition and I am trying to find ways to address the concerns that have been raised and find out with whom we can raise them. Jackie Baillie has suggested that we send the information on our discussion to the Justice 2 Committee for its information, but we also want to know whether the Executive knows about the information that has been presented. Given that it has been said that management and staff are at one on the matter, it would be useful to get some written response from the Chief Fire Officers Association to accompany the information that we have received when we send it to the Executive.

Ms White: I agree with what you and Jackie Baillie say. We should also ask the Executive for any comments that it has on the petition, particularly the allegation that the Mott MacDonald report did not address the Scottish perspective. I would like to go as far as what John Scott has said, but that is for another meeting, and I would

certainly like some comments from the Executive on what the petitioners have raised.

The Convener: Yes, we can ask for some kind of explanation from the Executive.

Rosie Kane: Forgive me for asking this, because I am new to the committee, but is it too early in the process for us to call people in to answer questions?

The Convener: It is not common for us to do that, Rosie. We expect responses and, if we are not content with the responses and cannot find another way of getting to the bottom of an issue, we leave open the option of bringing someone in front of us. We must start a process, and I suggest that, to do that, we contact the Executive and ask for its comments on what we have heard this morning and on the concerns that have been raised in the petition.

Rosie Kane: The reason that I ask is that I had dealings with Mott MacDonald over a report that it produced for the Scottish Office on the dumping of toxic waste in Rutherglen. Its work was seriously flawed on that issue as well; so for me, Mott MacDonald does not have a good track record. I would like to ask the company about issues of which it was clearly not made aware and to which the Executive might react, such as local knowledge and how it affects the length of the interrogation that is needed, as well as the uniqueness and diversity of Scotland. How do we fill that gap?

The Convener: The way that it has been done before is to do exactly what you have suggested: write to Mott MacDonald and ask it to respond to the points that have been made.

Rosie Kane: Thank you.

The Convener: Is it agreed that we write to all three—the Executive, Mott MacDonald and CFOA—to get the fullest picture that we can and get responses as quickly as possible before any decision is made on the matter?

Members indicated agreement.

Rosie Kane: Could we include the FBU in that?

The Convener: We have had information from the FBU this morning and submissions from the petitioners. If we send all that information to the Executive and Mott MacDonald and ask them to respond to it, we can address the responses in due course.

I thank the petitioners for coming this morning. We will let them know what responses we receive.

Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 (PE767)

The Convener: Our second petition is PE767, which is from Norman Dunning on behalf of Enable. The petition calls on the Parliament to

urge the Scottish Executive to review the operation and effectiveness of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

Norman Dunning, the chief executive of Enable, will give evidence to the committee in support of the petition, accompanied by Elizabeth Mauchland. I welcome them to the committee. They have three minutes to make an opening statement, after which we will ask questions.

10:30

Norman Dunning (Enable): Thank you for receiving our petition and giving us the opportunity to speak to it. Enable, as the committee is probably aware, is the largest Scottish voluntary organisation for people with learning disabilities and their families. I am the chief executive and Betty Mauchland, who accompanies me this morning, is one of our voluntary members. She is a member of our health and medical issues group but, significantly, she has personal experience of a fatal accident inquiry.

Our petition is perhaps wider than one might expect from an organisation such as Enable, as it goes beyond our immediate concerns about learning disabilities. It arose from our experience of supporting families in two fatal accident inquiries. One inquiry was into the death of Tracey Roberts and the other was into the death of Betty Mauchland's brother, James Mauchland. Both individuals had learning disabilities and died in hospital care. Our experience of those inquiries was, first, that it was a struggle to get an inquiry held because inquiries are not mandatory for people who die in hospital care. Secondly, the processes took a long time; the determination in the case of James Mauchland was reached some three years after he died. Thirdly, we do not know the cost to the public purse of such inquiries, although we know what they cost from our perspective. We guess that an inquiry costs between £100,000 and £200,000 as a minimum.

The process is adversarial; as Betty Mauchland will confirm, it is like being in a criminal trial. One feels that one is being disbelieved and questioned, even as a family witness. We are also concerned about the use of experts. In both inquiries, a number of people who were called to speak produced medical or nursing experts. That added to the cost, but it also led us to question some of the expert views, which seemed to us to be partisan according to which point of view the expert had been paid to represent. That does not seem to be the best way to get professional advice.

Then there is the cost to the individuals concerned. In both cases, the families ran up costs of £20,000 to £25,000. Legal aid is available

in these circumstances but, as the committee will be aware, a lot of families will not be eligible for it. A cost of £20,000 to £25,000 is considerable for families who are expected to meet it themselves or who will need the assistance of an organisation such as Enable to proceed. However, the financial cost pales into insignificance when it is compared with the emotional cost and trauma for the families who are taken through the process. Put yourself in their situation: a close relative has died in circumstances that are questionable, worrying or concerning and the family has to go through a long process—in Betty Mauchland's case, it lasted three years—before there is a determination. During that time, they are subjected to lots of questioning and doubts and, at the end of the process, it is difficult to achieve the closure that one would ordinarily want on a bereavement.

Given all that I have said about the conduct of fatal accident inquiries, it seems incredible that the outcome has no legal force. A sheriff reaches a determination, but it is no more than a recommendation to an individual or a public body. Such determinations can be ignored; in the Mauchland inquiry, it was left to Betty, or to us as a voluntary organisation, to press for the recommendations to be implemented. There has to be a better way to do that and there must be a question in people's minds about the huge consumption of public resources that is required to achieve the ends.

We would like the support of the committee to examine the fatal accident inquiry process. We are aware, with due modesty, that we are talking only about our two experiences. We would like the committee to consider how the sheriff's recommendations at the end of what is a long judicial process could be enforced. Should the recommendations not have legal force? Under the Fatal Accidents and Sudden Deaths (Scotland) Act 1976, recommendations do not have legal force. When such recommendations are made, should there not be some means by which they are monitored to ensure that they are acted on? Should they not be dealt with in an arena in which it is not up to individuals or charities such as ours to try to pursue the recommendations?

The Convener: Do members have questions for the petitioners?

John Scott: Having gone through a bereavement in a hospital, I can identify with your comments and I know that there must be an emotional cost to going through such an inquiry. Like you, I find it hard to believe that the sheriff's findings have no legal status. How might the existing arrangements be improved?

Norman Dunning: The inquiry should be inquisitorial rather than adversarial. Its purpose should be to find out what went wrong. The

families' perspective is that they want to know how the situation might be avoided in the future. The current arrangements lead to a defensive response, perhaps because people are afraid that there might be further legal action and they might be sued. That does not help to get to the truth of the matter nor, which is important, does it help to prevent the situation from happening again.

In Betty Mauchland's case, it was never part of her motivation to sue anybody or to pursue them or to find blame. She simply wanted to try to put things right, but everybody went into a defensive mode to protect themselves, whereas they should have helped to find out how the same thing could be prevented from happening again to somebody else.

Betty Mauchland: Under the current set-up, people are very defensive in FAIs. That has been my experience. The inquiry was about defending doctors and health trusts and minimising blame rather than about finding out what happened. In the end, it was distressing to watch. Going through an FAI is quite harrowing. For me, the grieving process is not complete three years after the death. When somebody dies, you expect that you will get closure, but I had to wait such a long time. The FAI lasted over a year and it sat for 26 days but, ultimately, its recommendations were not acted on. I am sorry if I am going off on a tangent and not answering the question directly, but I am telling you how I feel. I have never been in a place like this before.

Enable surveyed all the health boards in Scotland, but the one in Glasgow, which is the largest in Scotland, did not even respond. The recommendations were made over a year and a half ago. Why did I have to go through that to get the justice that I should have had?

John Scott: I have not gone through an inquiry process myself. Was it worth it in the end? Would you do it again if you had known then what you know now?

Betty Mauchland: I do not know. That is a difficult question to answer.

The FAI was started by a doctor who complained to the procurator fiscal. At the start, I did not know what I was going into. I had never been in a court before and I did not know court procedures; it was all new to me. The stress that I experienced between the initial information coming from the procurator fiscal that there might be a fatal accident inquiry and the inquiry taking place was quite harrowing as well. There was very little contact between the procurators fiscal and myself, and I had to deal with five procurators fiscal.

To answer your question, even though the process was harrowing and although the end result was not all that I had hoped for in terms of a

legally binding determination, if the people here can make a difference and change things, I am glad that I did it.

Ms White: You mentioned the fear that people will sue being a barrier in a fatal accident inquiry. Do you think that it is an issue that if we push this matter further, people may go ahead and sue? Do you think that, because of the barrier that the law and—as we are coming to see—health boards have between the public and themselves, they are not prepared to engage in the process? Do you think that if we did as you suggest, people would not need to pay the £20,000 to £25,000, as the matter would be covered by legislation?

You talked about monitoring. Would an independent body monitor the results? It seems crazy that a health board can get a recommendation and not even reply. Would it be an independent person monitoring that, or would it be health boards or the Parliament?

I know that that was four questions, but I was quite succinct.

Norman Dunning: There are different ways of tackling this. One is to improve the current fatal accident process. In relation to that, there are two specific issues. Section 4(6) of the 1976 act makes provision for a sheriff to sit with experts—that is not the exact wording of the act. If that was made mandatory rather than voluntary, that would immediately get away from the business of everybody calling all their expert witnesses. The sheriff could sit with his own witnesses. If the sheriff then tried to establish what had happened rather than who was at fault, that would change the whole nature of the proceedings. We could change that part of the act.

The other way in which I would like the Parliament to consider changing the 1976 act is by making the recommendations of the sheriff binding. There would need to be some input from people who are skilled in the law—which I certainly am not—to see how that could be done. I think one could do that. However, the Parliament might want to consider whether the fatal accident inquiry is the right process at all, given what you have heard about the legal process. My suspicion is that, as long as it is a legal process, the sort of things that Betty Mauchland has encountered will happen. There will be delays and fear of a compensation culture. Perhaps the Parliament should give consideration to different ways of inquiring into things that have gone wrong to prevent their happening again, especially when public bodies are involved. I think that many people misunderstand families' main motivation, which is to prevent the same thing from happening to other people.

I am sorry, but I have forgotten the rest of your question.

Ms White: I have forgotten what it was myself. No—I think that you have answered all my questions.

Jackie Baillie: I echo the sentiments that other members have expressed. It must be very hard to lose a family member and then go through the process that you have had to go through. All credit must go to you for sticking it out, as that is important. I hope that we are not too terrifying.

Betty Mauchland: No. I am settling down now.

Jackie Baillie: That is good, but do not get too settled.

I would like to clear up one matter. I understand that a fatal accident inquiry does not determine legal liability for death, so any future judicial proceedings cannot be founded on the determination of a fatal accident inquiry. Therefore, if subsequent issues to do with compensation and so on are separate, it makes it even more worrying that the recommendations are not legally binding. If there is no connection between the two, the very least that a fatal accident inquiry should be doing is carrying things through.

I appreciate that you are not lawyers, but if you were to make the recommendations binding, would you make one agency responsible for seeing them through, or would you make a variety of agencies responsible, because a fatal accident inquiry will not relate to purely one agency? I know that you have given a number of examples, but who would you prefer to do the monitoring to ensure that recommendations are implemented? Is it a matter for the courts?

10:45

Norman Dunning: Sitting in these grand surroundings, I think that my preference is for the monitoring to be done from here. It is for such a reason that the Scottish public wanted this body. We wanted a central authority that can look across organisations—one that can look into what public bodies do, but which also has powers beyond that. We would also like the monitoring body to be democratically accountable. So my preference is that the body be located here. My second preference would be to have somebody who is responsible to the Parliament.

Rosie Kane: Thanks for coming today. You said that you had never been in a place like this. We do not often meet people like you, so thanks for talking to us about what you have been through. I have a couple of questions on the background. What were the recommendations from the inquiry? You said that there was no response from Greater Glasgow NHS Board, but did you get decent, interesting or useful responses from other health

boards? Fatal accident inquiries look into the events leading up to and surrounding the death of an individual. Did the inquiry do that?

Betty Mauchland: Sheriff Dunbar made 21 wide-ranging recommendations. Some of them involved training. Others involved appointing specialist nurses for people with learning disabilities, because the thing people with learning disabilities need more than anything else is stability. If you have ever been in hospital, you will know that you see a sea of faces. Lots of different nurses and doctors come in on different shifts. There is no continuity. The idea of appointing a consultant nurse in every health board was important, but it has not even been implemented in Tayside—and Jimmy died in Ninewells hospital in Tayside.

Although on paper Tayside NHS Board has done a fair amount of work in its action plan, some health boards—if they have done work—have not responded to Enable's survey. We made a reckoning a couple of weeks ago. It is worrying that the largest health board in Scotland ignored the question that was put to it by Enable. A number of recommendations were made. If the board had done anything, I would have expected it to respond.

What other questions did you ask?

Rosie Kane: The remit of a fatal accident inquiry is to examine the events leading up to and surrounding the death of an individual. Did it do that?

Betty Mauchland: No, because I do not think that fatal accident inquiries do that. It is all about damage limitation. The inquiry does not consider the real cause of death. An inquiry should be an inquiry; it should explore as many avenues as it can to reach a reasonable answer. The inquiry into Jimmy's death took place over 26 days, which seems like a long time, but on some of those days the inquiry met for only an hour or less, so it did not explore all the avenues. The inquiry did not deliver, although it made recommendations that have not been implemented. The process was too adversarial and did not do what it was supposed to do. It should have been an inquiry into a death, but it turned into a case for the defence.

Helen Eadie: I declare an interest, because my daughter is a procurator fiscal depute—do not let that put you off, Elizabeth. It is nice to see you here. You and Norman Dunning have raised serious issues, which give us real cause for reflection. When the meeting ends we will want to think further about what you have said.

A range of statutory agencies might have to have regard to a sheriff's findings. Is there an onus on such agencies to have an input to this whole vexatious question? I am thinking about the Health

and Safety Executive and other statutory agencies, including the professional agencies that set standards for hospitals.

Betty Mauchland: There are different approaches to fatal accident inquiries. If a fatal accident inquiry is held as a result of an accident at work, the Health and Safety Executive kicks in and, I suppose, monitors the implementation of recommendations. No such body exists in relation to deaths in hospital.

Helen Eadie: For clarification, would the sheriff's findings automatically be sent to the various agencies that might have an input?

Norman Dunning: Not necessarily, unless the sheriff directed that that should happen. In the case of Jimmy Mauchland, the recommendations to health boards were specific and useful, although they perhaps did not go as far as we might have expected. However, as Betty Mauchland said, there was no mechanism even for their distribution to health boards. That happened only because we asked a member of the Scottish Parliament to lodge a question to the minister and the minister arranged for the recommendations to be sent to the health boards, which is a rather hit-and-miss approach.

The Convener: Rosie Kane asked about feedback from health boards. Is there evidence that health boards have acted on any of the 21 recommendations that were made as a result of the case that you highlight? Health boards were not required to act by the FAI.

Norman Dunning: Some health boards have taken action. Our survey sought to ascertain whether action had been taken. However, a voluntary organisation such as Enable can ask boards to tell us what they are doing, but boards should be required to provide that information to someone. As Betty Mauchland said, one of the largest boards has not replied to us, but it is not the only one. Some boards replied constructively and we will follow up what they are doing. We have suggested that boards that are demonstrating best practice should publicise their work among other boards, so that the exercise is regarded not as negative but as a way of tackling the issues. Enable, with the help of Betty and other volunteers, is happy to take action, but it should not be left to us to do so. There will be circumstances in which individuals have to attend inquiries without the support of an organisation such as Enable and will not be able to pursue the case in the way in which Betty has done.

The Convener: Members have no more questions, so we will move to recommendations. What do members suggest doing with the petition?

John Scott: It would make sense to invite the Lord Advocate, the Law Society of Scotland and

the Scottish Law Commission to comment on the issues. Thereafter, we might refer the matter to the Executive. In the meantime, we can obtain an initial response from the bodies that I suggested.

Helen Eadie: Do we want to write to ask the chief medical officer for Scotland to explain why the Greater Glasgow NHS Board has not responded or why he has not directed it to respond to Enable?

Jackie Baillie: I suspect that the Minister for Justice might be interested. I know that the committee cannot take up specific cases, but if we asked in general terms what the mechanisms are and used the case that we are discussing as an example, that might be helpful.

The Convener: Are members happy with that?

Campbell Martin: Norman Dunning and Elizabeth Mauchland put their case forcefully. Is there a way to let the minister know what they said?

The Convener: As a matter of course, we send the *Official Report* as supporting evidence to ministers or whomever we write to for responses. All such people receive copies of submissions and the information that we obtain at meetings.

Do we agree to write to the three bodies that John Scott suggested and to the minister for responses to the views that have been expressed?

Members indicated agreement.

The Convener: I thank both witnesses for attending. Your evidence was interesting and I hope that the experience was not too harrowing.

Betty Mauchland: Thank you.

Speech and Language Therapy (Agenda for Change) (PE768)

The Convener: Petition PE768, which is by Susan Bannatyne, calls on the Scottish Parliament to consider and debate the implications of the proposed agenda for change legislation for speech and language therapy services and service users in the national health service. Susan Bannatyne is present to give evidence in support of the petition and is accompanied by Nicola Orr and Judith Philip.

I welcome you to the committee. You have three minutes, after which we will ask questions.

Susan Bannatyne: I thank the committee for giving us time. The three of us will share our opening statement.

The petition is a personal response to the proposed implementation of agenda for change for

the NHS. We are all practising NHS speech and language therapists.

As members know, agenda for change aims to rate all NHS jobs in the same framework. A pilot year has just been completed in which agenda for change was tested in early-implementer sites. We recognise that agenda for change is an attempt to ensure equality of pay and conditions throughout the NHS and we value the positive changes that it will make for some staff groups but, after examination of the early-implementer reports, significant concerns remain for our profession. We are aware that other staff groups—administrative and clerical staff in particular—will also fare badly.

As far back as 2002, there were concerns that speech and language therapy would be negatively affected by agenda for change. In the early stages, the union signed off a set of job profiles for each profession. However, many speech and language therapists were unhappy with them and felt that they did not accurately reflect the knowledge and skills required for speech and language therapy posts. Comparisons with profiles for other professions increased concern. For example, pharmacists score more highly on communication than do speech and language therapists—the communication specialists. Profiles leave speech and language therapists unable ever to attain the highest level of knowledge and skills, unlike clinical psychologists, for example, whom a European court previously ruled as being of equal value.

11:00

Nicola Orr: Our concerns have been raised through union representation at every level and through individual therapists contacting their MSPs, MPs, the Scottish Executive and the press, but we feel that those concerns have not been addressed adequately. We have prepared a document detailing our concerns, entitled "Information in Support of Petition", which you should have in front of you and which details the issues that we are asking the Parliament to investigate. Those issues include the fact that 30 to 50 per cent of speech and language therapists require pay protection, which would be lost should they move post or be promoted. Some speech and language therapists could face a salary drop of up to £10,000 a year and there could be knock-on effects of pay protection on opportunities for career progression, the balance of skills and experience within departments, recruitment, retention and morale. The younger generation of speech and language therapists see their career prospects vanishing before their very eyes.

Judith Philip: Our issues with agenda for change are about more than just money. The loss of salary and the need for pay protection are

concerns, but the greatest concerns are the consequences of that for career structure and, ultimately, for our service users. Our service users are individuals whose lives are affected profoundly by their difficulties. They are your granny who has had a stroke, your premature baby, your elderly neighbour with Parkinson's disease and your nephew with an autistic spectrum disorder. It could also be you. They are just a fraction of the individuals with whom we work—individuals who cannot take communication for granted.

Communication is at the heart of human interaction and, as speech and language therapists, we enable a parent to communicate with their child, an adult who has lost their voice box to speak again, a pupil to access the curriculum in a mainstream school and a stroke victim to eat safely. Those might seem like small things for those who can take communication for granted but we, as speech and language therapists, have the privilege of enabling people to find their own voice and to participate in the community around them.

We have made representations to the Scottish Executive about our concerns. I wrote to the Executive's Scottish pay reference and implementation group in August following the issuing of a joint statement that the pay side of agenda for change would go ahead subject to union votes. I received a response to that letter yesterday, copies of which are available through the clerk, which reinforced our concerns that the Executive is not addressing the key issues. We would like the committee to recommend investigation of the issues of levels of pay protection for speech and language therapists, the effects on career structure and on service users, the accuracy of the job profiles that were drawn up under agenda for change and agenda for change's effective reversal of the European court ruling on equal pay.

The Convener: Thank you very much. We are joined this morning by Keith Raffan, who has expressed an interest in the petition.

Mr Keith Raffan (Mid Scotland and Fife) (LD): I have constituents who have taken up the issue with me and who are concerned about the lack of progress that has been made. In a week I will meet some of the representatives who are here today to discuss how to progress the matter. My concern is about the avenues that the petitioners have explored so far. You say that you have contacted MPs and MSPs. You have raised three clear issues—career structure, levels of pay protection and the effect on client users. Do you feel that you have made progress or do you feel that you have been hitting your head against a brick wall?

Judith Philip: We feel that we have not really made progress. Although I was pleased that SPRIG had replied to me, I felt that it was hedging on the issues. You will see from the letter that it makes points about the possibility of addressing concerns about matching an individual's job description with the job profiles. However, it does not address our concern that the profiles that were drawn up were not suitable and it does not acknowledge the huge effects that we think pay protection will have on career structure and service users.

Helen Eadie: I see from the papers that Amicus is one of the unions that are involved. I have read that it is analysing the results from the surveys that it has carried out. What other unions are involved? What are the trade unions saying?

Judith Philip: Agenda for change will affect all NHS workers apart from dentists, doctors and some senior management. The unions for all other health professionals will therefore be involved. The two biggest unions concerned are Amicus and Unison. I believe that Unison is to recommend that its members vote for agenda for change. Although agenda for change is very likely to be voted through, we are concerned to ensure that it is the best that it can possibly be. We do not want to stop it just because of our issues; we can see that it is doing a lot of good, but we want to ensure that problems are ironed out.

Helen Eadie: Are there specific unions apart from Amicus that are directed at your area of work? Unison is a big public sector union; are there smaller unions that are aimed at your profession?

Nicola Orr: It is just Amicus to which speech and language therapists are affiliated.

Helen Eadie: Has the union given you any direct response? Have you had any meetings with trade union officials to discuss the issues?

Judith Philip: I am a union representative, although I am not, of course, speaking in that capacity now. We have taken our concerns to the senior representatives of the unions, but we were concerned enough also to raise the matter as individuals.

Ms White: From what you have said, the pay situation is rather worrying, particularly in relation to your comments regarding the European courts. Five years down the line from 1999, some people are only just getting equal pay. You will, I hope, be able to give us your honest view on these concerns. I note that 98 per cent of speech therapists are women. You also mentioned that domestics, administration staff and secretaries, who are also women, are in the low-pay bracket. From your point of view—not as a union rep but as someone in the profession—does the fact that 98

per cent of your people are women have something to do with the low pay situation?

Susan Bannatyne: We would like to think not. That is the most honest answer that I could give to the question. I sincerely hope not. Although the petition specifically mentions speech and language therapy, many domestic and clerical staff will suffer just as much as we will, if not more. They already have to deal with separate issues; for example, we are quite used to drawing up job profiles in our profession, whereas that is completely new for the domestic staff. We have to deal with that process as well as with the possible negative results at the end of it.

Ms White: Perhaps you should be politicians—you did not give an answer, as I would see it. Your submission mentions non-statemented and non-recorded children, and it covers some of the reasons why attempts were made not to grant you equal pay. Could you elaborate on that? Is it being suggested that you are not treating as many people as you do treat because some of them are not recorded?

Susan Bannatyne: That probably relates to the severity of the cases that are dealt with. Children who are statemented or recorded are probably at the most severe end of educational needs. That does not take away from the work that we do with non-statemented or non-recorded children. That might explain where that comment has come from.

Mike Watson: I am very concerned about the contents of your petition. I should say at this point that I am a member of Amicus. I remember when speech and language therapists joined the union. There was a very long-running case that went all the way to the European courts concerning equal pay for work of equal value. I recall that it took about 10 years to go through. It seems that, on the face of it, the situation that you have described could unpick that. That is obviously a matter of great concern.

You mentioned Amicus and Unison. When you said that Unison was likely to advocate a vote in favour of agenda for change, I assume that that would mean the whole document. Am I right in thinking that the choice is either to accept or reject the entire document?

Judith Philip: The Scottish Executive's August statement said that the pay part of agenda for change will go ahead as had been stated originally but that some of the pay and conditions parts, which were causing a lot of difficulties, would be put on hold. Those elements will go ahead however, and I believe that the ballot is on the package as a whole.

Mike Watson: In any job evaluation exercise, there will be winners and losers—that is the nature

of the beast. The additional information that you supply with your petition says that

"the basic pay of experienced therapists is set to be reduced by up to £10,000 per year".

Can you give me some idea of the pay scale that we are talking about? What are the figures at the top and the bottom of the pay scale?

Susan Bannatyne: The bottom of the scale is approximately £18,000 a year for a newly qualified therapist and up to about £60,000 for people at management level.

Mike Watson: So the drop of £10,000 would affect only the management level.

Susan Bannatyne: It would affect the more senior staff.

Mike Watson: Nonetheless, one sixth of someone's salary is a huge drop.

Susan Bannatyne: The additional concern in that regard is that senior staff are closer to retirement age and, given that our pensions operate on the basis of final salary, the pensions of our most experienced staff will suffer as a result of the change. That concerns us greatly.

Mike Watson: In general terms, what would be the effect on the starting salary?

Nicola Orr: If pay protection came in, it is likely that more middle-of-the-road and senior therapists will stay in post because they will not want to move to new jobs or take promoted posts because they might get a lower salary and worsen their pension situation. That means that junior therapists will not be able to move up the career structure. We feel that there will be no throughput of staff.

We are already a shortage profession and, although we hope that people will continue to train as speech and language therapists, we do not know what the effect of the implementation of agenda for change will be in that regard.

Mike Watson: You also say that the effects are "disproportionately devastating". Have the implications of the changes come out of the blue? As the process evolved, was not there an indication that you were likely to be hit particularly hard? I find it strange that, given that we are right up against the implementation date, the unions were not dealing with this earlier.

Nicola Orr: You and us both.

Judith Philip: As I said in our opening statement, there were concerns from very early on. People were not happy with the job profiles that were drawn up and there were concerns about the early implementation year. It has been difficult to get information about how we have been affected. We have been able to glean only

scant information from the reports. Before we are asked to vote, we would like to have detailed information about how we will be affected.

Another of our concerns is that, because of the way in which the job profiles were originally written, the majority of speech and language therapists will be in the middle of the pay bands. That has implications for decisions about who takes on more senior roles and who has responsibility for various aspects of the service. That is a big concern.

Mike Watson: I understand the points that you are making about blockage in the career structure of the profession.

Is there a private side? I presume that speech therapists work outwith the national health service and that they will not be subject to agenda for change. I presume that there would be an inclination for those trained in the NHS to leave the NHS—for obvious reasons, even though they might not want to—despite their having gone through several years of training.

Susan Bannatyne: Yes, that is being joked about in speech and language therapy staff rooms throughout Scotland, but it is only half joking.

Mike Watson: The time for joking is over.

Nicola Orr: A recent phone poll was carried out by the Royal College of Speech and Language Therapists; 90 per cent of respondents said that they would leave the profession to pursue private careers if the changes were to occur.

11:15

John Scott: Mike Watson has covered many of the points that I wanted to raise. However, I am particularly worried about the effect on recruitment. You outlined clearly what the effect would be on the highest-level salaries in your profession, but what would be the effect on average salaries and, in particular, the effect on new entrants to the profession?

Susan Bannatyne: An on-going survey into recruitment and retention in the profession has been carried out every year for the past three years. As I understand it, this year's findings are that the situation is just starting to turn the corner and get slightly better.

As for the effect of agenda for change, new graduate therapists coming into the profession would receive a slightly higher salary than they do at present, so that looks like a good effect. However, as we have outlined, one is likely to be stuck at that salary; there will be no progression. At the moment, people who come into the profession can see how to work their way through, both financially and in terms of specialising and

learning. It is likely that agenda for change will block that. The most likely outcome is that, even though new graduates might be slightly better off financially, they will be stuck where they are.

John Scott: So there will be no career path?

Susan Bannatyne: No—we would lose that.

Judith Philip: I have been qualified for only a year, so I am one of the new graduates who could benefit now from agenda for change. However, I am so concerned about the situation at such an early stage in my career that I need to fight to do something about the profession that I have joined because it is a fantastic profession. That should demonstrate the level of concern.

Campbell Martin: So far, questions have understandably related to you as speech and language therapists and how agenda for change would impact on you. What would be the impact on the people who receive your services?

Susan Bannatyne: I am a paediatric therapist who works in community services. We already have long waiting lists, so it can take up to a year before a person can get an initial assessment. That could be a one-off appointment; it does not mean that the person will return every week to work on any problems.

If fewer therapists come into the profession and we cannot fill jobs, it is logical that waiting times can only increase. The other impact on our clients would come from the skills mix. Although we complete a four-year degree to qualify, a lot of experience is also gained from working with colleagues. If we end up with more experienced staff leaving the profession to join the private sector or moving to other careers, we will run the risk of our clients not having such a good service.

The Convener: Do members have recommendations for how we should deal with the petition?

Ms White: If we ask the Minister for Health and Community Care for his comments, will we have time to do something about the situation, given that agenda for change comes into force on 1 October?

The Convener: According to the information that we received this morning, implementation of agenda for change will be only partial; discussions about terms and conditions are on-going. I think that there is room for our input. Can that be clarified?

Susan Bannatyne: I was just checking with my colleagues. As we understand it, implementation will take place in December, but conditions will be backdated to October.

The Convener: So we have some time. That timescale would allow us to write to the Executive.

Judith Philip: The matter has not been balloted by the unions yet. As Amicus members, we do not yet have a date for that, but we obviously hope that there will be scope to amend things, even after the proposal has gone through. I do not think that it would be the end of the matter just because it had been voted on. It certainly would not be for us.

Mike Watson: I am happy enough to write to the Executive and I have seen the letter that Mrs Philip has given us today and the reply from the Scottish pay reference implementation group. I suspect that the Executive's opinion is that there has been a system, that it is objective, that there are winners and losers and that that is all that can be said. I think that it would be difficult for the minister to intervene at this stage, but we have to ask him whether he is concerned about the effects on NHS services for people who need the services of the women who are here today and their colleagues.

I suggest that we also write to Amicus and ask it for its interpretation. I think that it was making some sort of analysis of the proposals; we could ask for an update on that and for a formal statement of its position.

Helen Eadie: That was my point, convener.

The Convener: We shall write to the minister and to the unions to get a clearer picture of where we are going.

John Scott: Is there likely to be a group of people who could be classed as the recipients of your service and to whom we could also write? In terms of job protection, Amicus is the group to write to, but is there a user group, so to speak, whose members might have views on what that is likely to mean for them?

Judith Philip: There is a range of user groups. Our service obviously splits into adult and paediatric services and I am sure that we can give you details of a number of user groups to cover the range of clients with whom we work and who might be able to comment.

John Scott: It would be interesting to hear their assessment of the likely impact.

The Convener: You could provide our clerks with user-group information. I think that it would also be useful to write to your royal college to hear its take on the situation. I know that writing to Amicus has been suggested, but as you are all members of the Royal College of Speech and Language Therapists. It would be useful to know what it thinks about the dilemma that you face.

Rosie Kane: I have had language therapy, because I have nodules. I could see the witnesses looking at me because I keep clearing my throat a lot, and I get a row for that.

Given what Sandra White said about speech and language therapy having a predominantly female work force, I wonder whether it is a matter on which the Equal Opportunities Committee ought to comment.

The Convener: Could we wait until we get our responses back? That might well be where we end up sending the petition, if we send it to a committee. Given the evidence that we have heard this morning, equal opportunities may well be an aspect of the case. However, until we get responses back from the bodies that we are writing to, it will be difficult to go to the Equal Opportunities Committee pre-emptively. That may be the course that we take, but we are at the stage of gathering information at the moment.

Rosie Kane: I am always jumping the gun, as you know. I am always in a hurry.

The Convener: It is not a problem.

Is it the view of the committee that we should write to those bodies and get their responses to the issues that we have been discussing this morning?

Members indicated agreement.

The Convener: I thank the witnesses for bringing their petition and for their helpful evidence this morning.

Voluntary Sector (Local Authority Funding) (PE762)

The Convener: We come now to PE762, by James Clifford, on behalf of Cragneuk Development and Support Unit. The petition calls on Parliament to urge the Executive to review its guidance to local authorities on allocation of funding to the voluntary sector; in particular, the apparent emphasis on funding innovative or new projects at the expense of existing projects. The petitioners are concerned at the withdrawal of funding from the CDSU, which is a voluntary organisation that provides assistance to local unemployed residents in accessing education, training and employment opportunities.

The Scottish Executive is undertaking a strategic review of voluntary sector funding in partnership with the Scottish Council for Voluntary Organisations and the Convention of Scottish Local Authorities, and is in the process of agreeing a joint action plan, which is to be published before the end of 2004. Given that the committee is unable to become involved in the individual funding decisions of community planning partnerships, I suggest that we pass a copy of the petition to the Executive's strategic review of voluntary sector funding for information and that we close the petition. However, I do not want to do that until we have heard from Margaret Mitchell,

who has joined us this morning to make a contribution in support of the petition.

Margaret Mitchell (Central Scotland) (Con): I am grateful to the committee for affording me the opportunity to speak in support of the Cragneuk Development and Support Unit petition. Although the terms of the petition are probably self-explanatory, I think that it would be worthwhile for me to spend a minute or two on a couple of points that have wider implications for the voluntary sector in general.

The unit grew out of the work of a support or action group that was set up in Cragneuk to tackle anti-poverty issues. The group established the fact that there was a need to address the long-term unemployment of residents in the area and the unit was set up in 1991.

The unit has an excellent track record of success in the provision of education, training and opportunities for the unemployed. That success is evident in the fact that over the years it has been able to become to a large extent self-financing. It has entered into partnership with Motherwell College and other organisations and with Scottish Enterprise Lanarkshire for training contracts.

The main concern is that, despite the unit's proven track record and its ability to generate its own income, communicate successfully and provide successful outcomes against targets in terms of employment activities in Cragneuk, the local authority core funding that it relied upon has been withdrawn in favour of another organisation.

We need to consider the wider implications for organisations, including local citizens advice bureaux, of such a withdrawal of funding from an organisation with a proven track record, such as the CDSU. Sometimes a local authority will give all the money that it puts into training and information to its local CAB network, whereas other authorities seek to replicate CAB services. My contention is that, given the voluntary element of voluntary sector provision, it is not possible for authorities to replicate services with the same level of expertise, experience or value for money.

I want to mention not only the CABx but young carer projects, one of which operates out of Perth. Although projects such as the Perth and Kinross young carer project do excellent work, they are badly in need of the core funding that local authorities could provide if they were so disposed.

I ask the committee to consider the funding guidelines. That would be a superb move forward, which would give voluntary sector organisations a huge boost and would offer them a lifeline in the important work that they do.

The Convener: Thank you, Margaret. That was helpful. I know of CDSU's track record, as it operates in a constituency adjacent to my own.

The Public Petitions Committee cannot consider individual funding applications. This type of issue has come before us before, but it is not our remit to sit in judgment on the funding decisions of local authorities or funding bodies.

In essence, PE762 asks the Executive to review its guidance, which is what the Executive is in the process of doing. Beyond passing the petition and the helpful comments that Margaret Mitchell has made about the issues that concern CDSU to the Executive, for it to feed into its review process, there is not much that the committee can do. Do members agree that that is what we should do?

Members indicated agreement.

John Scott: I agree. Essentially, the situation is one of a new community partnership exercising choice. However worthwhile the group, sadly it is a loser in the process.

The Convener: Members have agreed that we should pass PE762 to the Executive for information and close our consideration of it at this point.

Margaret Mitchell: That is helpful, convener. I am sure that that will help to raise awareness of the wider issues.

Sub-post Office Closures (PE764)

The Convener: Our next petition is PE764, which has been submitted by Margaret Tait on behalf of the Stoneybank Tenants and Residents Association, Musselburgh. The petition calls on the Parliament to request that the Post Office considers sympathetically the needs and requirements of disabled and elderly persons who, in urban areas in Scotland, would be expected to walk substantial distances—sometimes in excess of 2 miles—as a result of the closure of certain sub-post offices.

The procedures used in determining the closure or relocation of a post office or sub-post office are set out in a code of practice agreed between the Post Office and Postwatch, the Consumer Council for Postal Services. The code specifies that proposals to close a branch must take into account a range of factors, including convenience of other branches and

“Facilities and access for disabled customers at other branches”.

The Royal Mail is undertaking a programme of restructuring the urban post office network, which is expected to result in the closure of 3,000 urban post offices throughout the United Kingdom by the end of 2004. In its 2003-04 annual review, the Royal Mail states that it is

“determined that over 95% of our urban customers nationally will remain within a mile of a Post Office® branch.”

In response to a parliamentary question on 18 March 2004, the Deputy Minister for Communities, Mary Mulligan MSP, outlined that the Executive has

“made £2 million available until 2005 to sustain and improve sub post offices in deprived urban areas.”—*[Official Report, Written Answers, 18 March 2004; S20-1559.]*

Susan Deacon has joined us this morning, having indicated an interest in this specific case.

11:30

Susan Deacon (Edinburgh East and Musselburgh) (Lab): As the member for Edinburgh East and Musselburgh, which includes the Stoneybank area that the petitioners are from, I appreciate the opportunity to comment briefly on the petition. The petition was sparked by the proposed closure of a local post office in the area. I should say from the outset that I appreciate that the committee has considered petitions on the subject of post office closures before. I also recognise, as the convener set out in his opening remarks, that there are procedures in place for deciding national policy on the matter—the legislative powers for which lie at Westminster—and for making decisions about individual post offices, which are taken by Post Office Ltd.

However, the petition raises specific issues that are particularly germane to the areas of interest and responsibility of the Parliament. The petitioners have placed particular focus on the impact of the closure of some urban post offices on elderly and disabled people. The Monktonhall post office is one of 21 offices proposed for closure under the network reinvention programme for the Edinburgh area—or the greater Edinburgh area, I should say, as Musselburgh sits outside the city. Six of those 21 offices are in my constituency. The Monktonhall office is a good example of a closure that would have a particular impact on elderly and disabled people.

The documentation on the Monktonhall office refers to the fact that it is located on a road that has

“a very slight slope down, towards the town centre.”

I and other local people would describe it as a very steep hill up from the town centre. That is a general point, which relates not only to that one office. A serious matter to be considered whenever changes to local post offices are being contemplated is the practical reality of each office closure for elderly and disabled people. Issues such as gradient, as well as distance as the crow flies, are very real if one is in a wheelchair, if one is elderly or frail, or, for that matter, if one is pushing a pram. For those reasons, the petitioners were keen that the Scottish Parliament should do

all that it can to ensure that their concerns are factored into decisions about local office closures. The local MP Gavin Strang and I have made those points in relation to the specific office, but there are wider issues, as the continuing process of network reinvention takes place and changes are made to the post office network throughout Scotland.

Given the Parliament's interest in social justice concerns and equal opportunities matters, the broader points that my constituents raise in the petition are of concern to the Parliament. Many of us have raised those wider points in previous debates in the Parliament and I would hope that, through this committee and in other ways, the Parliament and the Executive could play an appropriate role in ensuring that those concerns are addressed in shaping the future pattern of post office provision throughout Scotland.

Mike Watson: Our papers quote the Deputy Minister for Communities as saying:

"we have made £2 million available until 2005 to sustain and improve sub post offices in deprived urban areas."—*[Official Report, Written Answers, 18 March 2004; S20-1559.]*

I know that we cannot get involved in individual cases, but perhaps Susan Deacon can increase my knowledge of Musselburgh, which is not as developed as it might be. Is this post office in an area of Musselburgh that is regarded as urban, or is it on the outskirts, in an area that is more rural than urban?

Susan Deacon: I am happy to extend Mike Watson's knowledge of the Musselburgh area any time he wishes. For the purposes of the Post Office's network reinvention programme, the answer is that the office is in an urban area.

Mike Watson: Is the area regarded as deprived?

Susan Deacon: The particular office is not, to my knowledge, classified as an urban deprived office. Again, that is the Post Office's definition.

Mike Watson: Therefore, that might disqualify it from a share of the £2 million—which is not a huge amount if it is to cover the whole of Scotland. I asked the question because I wondered whether the office would be able to benefit from that money.

I suspect that every member round the table has experienced the closure of an individual office in their constituency. The Post Office does not have a good record—in fact, it does not have any record—in overturning an original decision to close a post office after public consultation. It seems that the Executive is considering short-term assistance when post offices are closing; we should write to the Executive to ask whether the reinvention

programme is being carried out in a manner that meets the aims not only of the Post Office but of the Executive. However, I appreciate that this is a Westminster issue.

Helen Eadie: Hello Susan. Can you tell us about the wider financial services in Musselburgh? It compounds post office closures if local banks close as well, or open for reduced times. I recently met representatives of the Clydesdale Bank and the Royal Bank of Scotland to discuss the issue of moving bank accounts to post offices. If that happens, it helps to make post offices a bit more viable. The representatives told me that they were involved in developing such schemes with around 1,600 post offices. What is the situation in Musselburgh?

As we all know, a problem for older people is that they may not have access to internet banking. Furthermore, I believe that HBOS is moving towards selling all of its automated teller machines and that the people who are buying them are going to charge £1.50 for every transaction. That will diminish the income of pensioners.

Susan Deacon: Because I understand the remit of this committee, I have been careful to speak in wide terms, rather than speaking too much about the local situation. However, I am happy to speak more about the local situation. As Mike Watson suggests, we all know of situations in which the wider social issues in relation to a decision must be considered. We have to consider more than simply a post office's location on the map.

In Musselburgh, the situation is less to do with the health, shall we say, or availability of other financial services and facilities, and more to do with the location of the particular community in relation to the town centre. The distance between the two and the gradient are important. There is a distinct community at the top of a hill—with its own little shopping area, including a post office—that is quite self-sufficient. It has a disproportionately high number of elderly and disabled people, because of the historical nature of the housing in the area. Therefore, taking the post office away has an especially severe impact on the individuals who live there.

A wider point that has not been mentioned—although I am sure that my colleagues have experience of this as well—is the fact that the post office is part of a small but varied mix of shops that serves a community. There is a real concern that taking the post office away from those shops will threaten the wider viability of the little shopping area that supports the community. Such issues of social need ought to be given proper weight in the decision-making process. The more that the committee can say to add its weight to that, the better.

As Mike Watson said, there have been changes to decisions. I know only the figures for the Aberdeen area, which is ahead of Edinburgh in the decision-making process, where four post offices were reprieved following the consultation process. The consultation process for the Edinburgh area closed last week. I hope that the Post Office will demonstrate that the process was meaningful and was not just a case of going through the motions. Very strong cases have been made in support of the Monktonhall post office and several other post offices, and I hope that that will be reflected in the Post Office's eventual decisions.

The critical point is that we cannot consider such issues simply in terms of the footfall through the post office or even in terms of pounds, shillings and pence. We have to consider the disproportionate impact on elderly and disabled people, as the petition says, and particular communities.

I hope that that answers Helen Eadie's question. The issue is the location of this particular community in relation to the town centre and the alternative receiving branches, as the Post Office calls them.

The Convener: Let us move to recommendations, as we have addressed the issue of post office closures before. Mike Watson has suggested that we ask specific questions of the Executive concerning its policy agenda on social inclusion. It might be helpful for us also to write to other interested parties such as the Disability Rights Commission, Age Concern and Help the Aged to find out their perspective on how the programme is rolling out and the impact that it is having on communities in Scotland.

Jackie Baillie: I suggest that we also write directly to the Royal Mail about its programme. It gave a commitment that 95 per cent of customers in urban areas would live within a mile of a post office, but that is clearly not the case for this community. We can ask for an update on where the Royal Mail is with that. Postwatch Scotland has been very helpful at a local level—certainly in my constituency—in challenging some of the decisions. This case is right up its street, so I recommend that we write to Postwatch Scotland as well.

Campbell Martin: In addition, when we contact the Royal Mail about the matter of 95 per cent of customers being within a mile of a post office, we could ask how many customers 5 per cent represents—those who will be outwith the mile—and where they are.

The Convener: Yes. We can ask that question. Are members happy that we deal with the petition in that way?

Members indicated agreement.

Current Petitions

Institutional Child Abuse (PE535)

11:43

The Convener: I ask the committee's agreement to alter the timetabling of the agenda for this item on current petitions. We have invited the Minister for Education and Young People, Peter Peacock, to attend the meeting. We had him down last on the agenda, but that was because we could not guarantee what time he would be available. I expect that there will be a full discussion of the item that the minister is here to address, and I would like to give as much time to that as possible. Does the committee agree to bring forward discussion of PE535 to now, so that we can go straight to a discussion of that petition with the minister?

Members indicated agreement.

The Convener: I welcome the Minister for Education and Young People to the committee. PE535 was submitted by people who were concerned about a specific issue, but in the course of considering that petition, the committee became increasingly concerned at the length of time that it was taking for a response to come from the minister's department. Therefore, on behalf of committee members, I ask that, in any opening statement that the minister makes, he give some explanation of why his department dealt with the committee in the way that it did.

11:45

The Minister for Education and Young People (Peter Peacock): I welcome the opportunity to be with you today, to address not only that question, but much wider questions that arise from the petition. They are extremely serious matters. With your consent, convener, and as I indicated to you informally, I will take quite a period of time to set out the thinking behind the Executive's decision and allow members to hear our reasoning so that they can ask questions. I expect to take about 20 minutes to set out all the things that I want to say.

The Convener: That sounds like rather a long time.

Peter Peacock: It is important. The issues are serious and the committee needs to understand what the Executive's thinking is. I want to set out the reasoning behind our decision not to commission an inquiry as requested by the petitioner and to answer members' questions.

Before I address the substance of the petition, I will deal with the lengthy delay in the Executive responding to the committee. I make very clear

that I believe that the committee was entirely justified in complaining about the tardiness that the Executive displayed in responding to its requests for information. There is no reasonable excuse or justification for the delays, and I do not seek to proffer any. The delays should simply not have occurred and I very much regret that they did. We have taken actions within the department to ensure that such delays never happen again. I will be happy to answer questions on that later.

I will address the substance of the petition and the Executive's response to it. The response that I sent to the committee in June sets out our reasoning, but I am keen to give the committee a better feel for what lay behind our decision. In particular, I am anxious to make clear how the Executive regards any actions or inactions that may have led to young people in residential settings suffering abuse.

As the committee is aware, a number of civil actions are under way in the courts or are in the course of being prepared. Nothing that I am about to say can or should be taken as referring to any particular case or individual circumstance that is currently before the courts or may come before the courts in the future. However, I am anxious to be helpful to the committee, the petitioner and others in setting out the background to the Executive's position.

I fully recognise that there is a danger that to decline the request for an inquiry could be interpreted as the state's trying to cover something up or not acknowledge that things happened to some young people who were in residential care that should not have happened to them. I make as clear as I possibly can that the decision not to proceed to an inquiry does not imply that the Executive does not acknowledge that, at times in the past, the treatment of some of our young people fell well short of what should be regarded as acceptable. Indeed, it is shocking to imagine that, at any time in the past, what happened to some young people may have been regarded as falling within the bounds of what was acceptable.

The Executive is very clear, not least from the evidence of recent criminal convictions, that some of the things that happened to young people in residential settings were gross and truly appalling. There can be few things worse for a vulnerable young person, I imagine, than to be taken from a family setting, to be placed in a new and unfamiliar setting and then to experience treatment that the courts have now found to be unacceptable and criminal.

I assure the committee that ministers—myself included—are aware of the nature of allegations that are made against staff and institutions from previous professional experience, quite apart from what we have learned as ministers. We are aware

of what happened to young people in some residential settings overseas, and it would be naive to imagine that Scotland had somehow been completely immune from such behaviours. Ministers fully understand and empathise with the sense of betrayal, bewilderment and anger that many individuals who have been abused feel. We understand completely that many of those people feel diminished by the experiences that they had. We understand that many lack self-esteem and confidence and are distrustful; that some suffer depression as a result; and that some feel shame or guilt for things that were not their responsibility. When adults abuse children, the children are never to blame.

It falls to this generation of ministers to acknowledge that, where wrongs occurred in the past, they were unacceptable. We share with others profound sorrow for the damage that has been experienced by individuals. Abuse will always be unacceptable and those who perpetrate abuse will be subject to the full rigour of the law. We are determined to ensure that inspection, regulation and standards are in place to prevent, detect and deal with abuse. Those who report abuse should be able to feel confident that they will be listened to and that proper action will be taken. We want no one who raises concerns to feel anything other than that they have an absolute right to do so.

However, it also falls to this generation of ministers to decide what it is right to do today to address the outstanding concerns of many individuals. Against the background of ministers' clear recognition that, for several young people, what happened to them was unacceptable, we considered whether to hold an inquiry. One of the purposes of seeking an inquiry might be to cause ministers to recognise publicly that the regimes in some residential care homes in the past occasionally resulted in some young people being treated in an unacceptable way. It is unnecessary to have an inquiry, with all the time and expense to individuals and the complex legal and evidential intricacy we know about from the experience in Ireland, to get the acknowledgement we give today, that some young people were wronged.

We considered further reasons for holding an inquiry including whether an inquiry would lead to policy changes that would further reduce the risks to children who currently live in residential care, and lead to more and high-quality support to adult survivors of past abuse. We also considered the impact of any inquiry on survivors' access to their legal rights and remedies. We identified several key questions, the answers to which would enable us to decide whether an inquiry was the best way forward. Would an inquiry prevent future abuse? Would it be in the public interest? Would it help to meet the needs of survivors today?

In order to come to a conclusion on those questions, officials were asked to undertake several pieces of work. They were to examine current child protection measures in residential establishments; to consider the experiences in other countries where, sadly, similar events had occurred and to consider whether their processes would be suitable and helpful in Scotland; and to consider the experience of other organisations that were dealing with the aftermath of abuse in their homes. We have subsequently studied the work of the short-life working group that was set up to examine services for adult survivors of childhood sex abuse.

In recent meetings with the petitioner, my officials have shared what happened by way of background investigations and I know from correspondence that he understands that those matters were looked into. We have given careful consideration to the outcome of the findings from those tasks and weighed the evidence from each. As the committee will be aware, a great deal has changed recently and is still changing. That impacts on the consideration of the issues that I have identified.

We are committed to minimising the risk of abuse to children and young people who are currently in residential establishments in Scotland. Following inquiries and reports into residential establishments, steps have been taken to improve the protection that is offered to these vulnerable children.

Since 1995, Her Majesty's Inspectorate of Education has carried out regular care and welfare inspections of boarding schools and hostels. The Scottish Commission for the Regulation of Care also regulates and inspects boarding provision in independent special schools and will soon regulate all boarding provision and school hostels. From April 2002, the commission has also regulated and inspected care homes for children.

The Protection of Children (Scotland) Act 2003 is being implemented to provide a list of persons who are unsuitable to work with children in either paid or unpaid employment. We now have enhanced disclosure checks for those who wish to work with children, and post-Bichard, we are considering further action with colleagues in the south. We are undertaking an extensive child protection reform programme, following the publication of "It's everyone's job to make sure I'm alright" in November 2002. That programme will provide extensive advice and guidance, staff development and a rigorous inspection regime.

Most recently, in March 2004, we issued "Protecting Children and Young People: The Charter" and a framework for standards to help translate the charter into good practice. Those standards set out what children, their parents and

members of communities can expect from agencies that are tasked with the protection of children.

Those measures will provide much greater protection for all children, including those who live in residential care homes. Beyond that, of course, Parliament has created the position of children's commissioner. Although the commissioner does not deal with individual cases, she can at any time, and of her own volition, inquire into the policies and practices of the Executive, local authorities and others in relation to child protection and residential care. That is a further level of scrutiny and inquiry into how we perform, collectively, to safeguard looked-after children.

Furthermore, the Executive funds Who Cares? Scotland to provide independent advocacy services for children who are in residential care. We also fund ChildLine and are going on to create a single national child protection helpline.

Those policy approaches and initiatives, together with the changes that were made inside organisations following recognition of past abuse, offer a measure of protection for children that was simply not available in years gone by. The nature of the changes that we have made and are making to child protection is attracting international interest and there are indications that Scotland is among the leaders in the world in such reforms.

Against that background, and with my commitment to do whatever more is necessary and to follow other international practice if it advances child protection, it is difficult to conclude that an inquiry would be the cause of policy advances that we are not already making or will not be prepared to make if we see that they would add to what we are doing. Therefore, we did not see an inquiry in itself advancing those matters.

Potentially, the public have a number of other interests. People need to be reassured that such abuse cannot recur; that lessons have been learned; that survivors have the support that they need; and that the legal process can take its course with full access to relevant information. We believe that the work that I have described will provide significant reassurances when it is taken together with the police's work in investigating, and potentially bringing charges against, individuals when criminal acts are alleged.

We considered how an inquiry might help to meet the remaining points regarding the needs of survivors. Ministers are anxious to do the right thing by the survivors of past abuse. Malcolm Chisholm established a short-life working group to consider the detail of what is needed for services for adult survivors of childhood sexual abuse. Ministers are considering that group's report. However, I recognise that, much as the report will

contribute to our thinking and planning, the issues at consideration in the petition are not confined to sexual abuse.

The Executive recognises that individuals who have suffered abuse have access to legal rights and remedies. A large number of civil claims are currently before the courts, and the Executive has been asked to provide access to papers that are relevant to those cases. We want to be helpful and open to those who are pursuing their claims in that way, while taking careful account of the judicial process and ensuring that we do not inadvertently harm the interests of others. We plan to make public the information that is held by the Executive on list D schools and other residential establishments. It is clear that such papers might be of help in current cases and that access to them can help survivors understand the background to the schools and their management.

The Executive wants to be completely open about the information that it holds in relation to those cases. We want to demonstrate clearly that we are not withholding evidence of abuse or Government knowledge of such abuse in those establishments. However, the files contain personal details about pupils and teachers. We have a duty to protect the personal privacy of those individuals, so we could not open the files for public inspection in their current form.

Last year, we closed some files that had been open to the public when it was discovered that they contained personal information. We are now redacting relevant files, which is the process of blocking out names and other sensitive information so that files can be made public without damaging individuals' legitimate interests. That is a complex and time-consuming process, but it will allow us to make publicly available the information that we hold. Having consulted organisations that have extensive experience of this type of work, we are also aware that it can be very traumatic for individuals to read files and papers relating to their experiences, whether or not they are named or suffered abuse. Therefore, we are planning for support to be available to individuals who seek access to files.

We will make the files available as soon as possible, but not before they have been redacted and suitable arrangements are in place to support the individuals concerned. Two members of my staff are working on that task full time, together with two part-time staff. We hope to be able to make the files available by the end of this calendar year, at the latest.

Particular concerns have been expressed about the time bar that can operate to bar claims relating to child abuse that occurred many years ago, as was shown in the recent Kelly case. I advise the committee that we have asked the Scottish Law

Commission to review and report on the law of limitation in relation to personal injury claims. In due course, we will consider any recommendations arising from that review.

I have an open mind on what more we can do. We have found our recent discussions with the In Care Abuse Survivors/In Care Abused Support group—INCAS—very useful. I have made clear to my officials that I want them to continue the dialogue with INCAS and to explore a range of matters through which we can better support survivors and gain from their insights and experiences as we continue to develop our policies. I have in mind to explore with INCAS and others what more we can do to ensure that survivors who have a need to express their feelings and emotions receive support. I am willing to make resources available to help that process, because the Executive recognises that more support is needed.

12:00

The petitioner will soon receive a presentation on our child reform programme from my officials. When he and his colleagues at INCAS have heard that presentation, I am more than willing to hear, from their experience, what more they think that we can do to protect young people in the future. I know that the petitioner is keen to ensure that we learn from the experiences of people who have been in care and I have asked officials to consider how best we can take those unique experiences and perspectives into account as we develop policy standards and inspection systems. All inspectorates engage with service users as a key element of the inspection process and, in planning the inspection of services for children, HMIE will consider how best to seek the views of existing care users. We are also considering how it might make effective use of lay members of inspection teams across a range of inspection work.

On none of those matters is an inquiry needed to cause the Executive to take action—we are willing to take that action now. I hope that I have made it clear that, although we think that an inquiry is not necessary, that is not the end of the matter from the Executive's point of view. There is a range of things that we should, can and will do to give more support to survivors, to learn from them and to have better policy as a consequence.

We considered whether the holding of an inquiry would have an unpredictable impact on public confidence. An inquiry might be perceived as a means to ensure that there are no residual issues, but it might be perceived, mistakenly, as an admission that there are major issues still to be resolved and it might lead to an unfair and damaging loss of confidence in existing provision.

We concluded that an inquiry would not add to our current actions and considerations for the reasons that I set out: because of our recognition that wrongs were committed in respect of some young people; because we are further reforming our child protection measures; because we believe that our actions meet the public interest considerations that we have examined; because we will do more for survivors and continue dialogue with them; and because an inquiry could have unintended consequences.

I recognise that that is not the outcome that the petitioner wants and that he represents a view that is held by many others, but I hope that I have set out clearly what lies behind our decision. We have investigated what is happening elsewhere, we have considered a range of issues and we have been thoughtful in reaching our conclusions. We are not closing the book on historic abuse, but opening another chapter as we seek to do right by those who have been wronged.

I am happy to take questions from members of the committee.

The Convener: Thank you for that statement, which contained a lot of food for thought. On behalf of the committee, may I say that I appreciate your full and frank apology for the delay in responding. I assure you that we will watch to see that responses are more timeous in future and we will let you know if we are disappointed.

We will move on to questions from members, but first I will set out the process. When we seek answers and get responses from the Executive, we consider what to do with those responses. The process remains the same whether it relates to written evidence or oral evidence. Members have the opportunity to ask the minister questions in response to the statement that he has just made, then the committee will discuss what to do with the information that we have obtained.

Helen Eadie: I thank the minister for his detailed statement. Everyone who has followed the issue will be glad to hear his explanation.

Children 1st raised a number of issues in correspondence with the petitioner. I think that you have covered those issues to some extent, but you could amplify your comments on the subject of the final point:

"there needs to be an investigation into why the voices of children are not sufficiently heard when accusations are made and are being investigated. The inquiry should also ascertain why children are too often powerless when those investigations take place, and make substantial recommendations as to how that will be changed."

Peter Peacock: There has been broad general criticism about children's policy and the way in which we, as a society, treat children. Traditionally, we have not listened to children's

concerns strongly enough. The Government, local government and the voluntary sector, which provide those services, now widely acknowledge that, historically, that has been the case. I come from the generation in which children were not only to be seen and not heard, but it was preferable that they were not seen for much of the time as well. When children might be suffering abuse, it is hugely important that we listen to and take account of what those children say and do the right thing by them.

One of the reasons for our funding Who Cares? advocates in our residential care homes is to allow young people to speak to someone who is not part of the home setting and to have their views listened to and acted upon. A range of other voluntary agencies that receive Government or local government support is also active in that field. For example, we fund the Childline helpline, which allows young people to report things that are happening to them so that they can be properly investigated. We are also going to trigger our own national helpline. We have yet to decide the details of how that will operate, but it will not only allow young people to phone for information and advice but will trigger action by agencies to deal with that young person's situation.

That brings me to a critical point. In my introduction, I mentioned our framework for standards of child protection. With the benefit of hindsight this might seem astonishing, but until six months ago we never had such standards. We have now introduced those standards, two of which ensure that children have the absolute right to speak to someone when they make allegations and that agencies make others aware of that right and make people available to listen to children. I am quite happy to provide a copy of the standards to members with those sections highlighted. From memory—my officials will keep me right on this—I am pretty sure that the standards state that a child will be given the right and the opportunity to say things in confidence once they have alerted people to their situation. Such a standard will not only allow young people to know what they can expect, but give us something against which to inspect children's services.

I acknowledge that we need to do much more on this matter, which is why we are introducing the range of measures that I outlined. We must ensure that, over time, our desire to have children's voices heard is turned into practice that is implemented everywhere and on every occasion when a child requires to be heard. As I have said, that has not happened adequately in the past.

Helen Eadie: You said that the compensation time bar is under review. That issue is causing concern right across Scotland; I believe that the cross-party group on survivors of sexual abuse

discussed it at one of its meetings. When do you expect that review to be completed and what impact will it have? For example, will it extend beyond institutions to include survivors of sexual abuse in any other setting?

Peter Peacock: You will appreciate that I am not a lawyer. As a result, I must qualify the following remarks by saying that we will have to double-check their legal accuracy.

The review that we seek centres not on compensation as such, but on the ability to seek a legal remedy. Compensation might be one of several such outcomes. However, the current time bar limits people even in seeking to make an application to pursue their cases. My colleague Cathy Jamieson has just referred the matter to the Scottish Law Commission, which, although it sits beyond Government, is still an instrument of Government. Since the commission's establishment in the 1960s, it has reviewed very complicated legal matters and recommended to Government any changes to legislation that might be required, for example, as a consequence of that review. The commission will take the usual time over the review process. I cannot honestly predict how long that will take. The important point is that the commission is examining these limitations, which I know are a source of frustration to the petitioner and to many other people. I cannot predict the outcome of that review. After all, we have asked that the commission's examination of the current law's implications has regard to all the circumstances that we are discussing today and to the law's wider impact.

You also asked whether any change would apply to organisations beyond Government.

Helen Eadie: To clarify, my question was whether individuals who were outwith institutions would be covered by the extension to the time bar.

Peter Peacock: It would relate to all personal injury claims.

Campbell Martin: My first question is about the delay in your and your department's response to the committee. The length of the delay showed contempt for the committee and, by extension, the Parliament and, by further extension, the people whom we represent. Given that the committee wrote to you more than once to ask for a response, what caused the long delay?

Secondly, without an inquiry, what mechanism is available to the people who were abused in homes some years ago to bring to account the people who ran and were responsible for the homes? What mechanism do they have to get those people to acknowledge that abuse took place and to get an apology?

Peter Peacock: I am not sure about the benefit of going into the fine detail of what went wrong in my department. All I will say is that there were breakdowns in communication and inappropriate allocations of time to task, given the circumstances. I do not seek to diminish the point that you and the committee have made—your position is entirely justifiable and the delay simply should not have happened. However, we have taken steps to ensure that such a delay does not happen again. I note what the convener said. In future, I would welcome observations if things were going wrong so that ministers knew about the situation early enough to take the necessary action. We could spend hours talking about the matter, but I simply put up my hands and say that we were guilty, but we have sorted the problem. I do not want to go further than that, unless I have to.

You asked what mechanism people would have without an inquiry. There is a legal mechanism. There is potential for hundreds of cases to go before the court in which people will pursue their rights in law and seek redress for what they feel happened to them. People would have to prove what has happened to them and then seek redress through the courts—that is the normal provision in any society. That is why we are anxious to make available all the information that we have at our disposal to allow people to make their cases as fully as possible. We do not wish to hide anything because it is hugely important that the issues are brought to the surface and that the cases are allowed to proceed.

You mentioned bringing people to account. If criminal acts are apparent or if there are allegations of criminal acts, the police will investigate and, if necessary or appropriate, charges will be brought. In recent years, criminal acts have been proven in the courts and, partly as a consequence, individuals are now pursuing compensation claims. Those are the criminal law provisions.

I have gone out of my way this morning to acknowledge that abuse has taken place in the system and that it should not have happened. I can speak only for the Government, not for the other agencies that were involved in the provision of services at the time. Those agencies need to consider how to respond. I encourage those who were involved to be open with their former clients about what happened, and I must say that many of them have been. I cannot see a problem with other agencies taking our approach of redacting files and providing access to information. However, that is ultimately a matter for those agencies.

As I said in my statement, I want my officials to explore with INCAS and others what mechanisms

can be put in place to allow people to express their feelings. Of course, people in such situations come at the matter from a different point of view and we must have a system that allows people to do what is suitable for them. I am prepared to make resources available for that process. That might mean working with voluntary sector organisations or the creation of new organisations to help consider the issues constructively and allow people to express the burdens that they carry as a consequence of the experiences that they have had and to get appropriate support to work through the issues and achieve closure on what has happened to them.

That can be done in a wide variety of ways and without a public inquiry, but I am more than willing to explore the matter openly in order to determine the best way in which we can meet people's requirements. I recognise that people need to be able to express themselves in the way in which they want to express themselves. Not everybody who has been the subject of abuse wants a public inquiry, but many people do. We must ensure that we accommodate everything that it is appropriate to accommodate.

12:15

Rosie Kane: I thank you for your statement and welcome your acknowledgement that abuse has taken place—I think that all of us would like the organisations to acknowledge that abuse has taken place.

You mentioned the costs, time and other things that are involved in an inquiry. You will understand that we in the Scottish Parliament know more about such things than anybody else. I refer to the Fraser inquiry, which was about economics, politics, the building, backbiting, grandstanding and a great many other things. That inquiry cost a lot of money and took a lot of time but last week it was said that the inquiry was cleansing, that it brought things to an end and that we can start afresh. I would hazard a guess that having an inquiry in this case would have exactly the same effect as the Fraser inquiry and that it would therefore be useful. Children 1st hints at that in its letter.

Do you agree that an inquiry would consider the issues of who, what, where and how? Perhaps it would consider who should be subject to Disclosure Scotland checks. I am not subject to those checks, but I enter the homes of very vulnerable people and very vulnerable people enter my office. I work with children a lot and have done so in the past. I do not know whether employees of the Catholic Church and priests go through Disclosure Scotland checks. Perhaps an inquiry would allow that whole area to be opened up, considered and reflected on.

We talked about looking at files. There are missing files that have never seen the light of day, and I wonder whether an inquiry would find out what happened to them.

I worked at ChildLine, where there is a confidential helpline. We did not always manage to locate perpetrators, but we took children's and adults' hands and assisted them through difficult periods of their lives and—I hope—pointed them in the right direction. Many children who were abused in organisations and institutions in the past are still being abused by perpetrators, while we leave matters lying.

An inquiry would be about many different things that the Parliament is perhaps not fully addressing at the moment. We all welcome the Parliament's forthcoming consideration of legislation to protect children from grooming and so on, but if we walk backwards a wee bit and consider what happened in the past, we will find answers for the future.

The committee might be asked to seek the views of the petitioner, but he has made his views clear: he wants to protect children in care and his view is that there should be an inquiry.

Peter Peacock: I understand clearly the arguments for an inquiry, but I have tried to say why, having considered all the arguments closely and in detail, we are not convinced that an inquiry is necessarily the right answer—indeed, it is not the right answer. We think that we can deal effectively with all the things that an inquiry could deal with in the ways that I have outlined.

I have said that I have an open mind about how we should work further with people to satisfy their need to have such matters explored more fully. We do not think that an inquiry is the right way to proceed for the reasons that I have given, but there are many other possibilities beyond an inquiry.

It would be a mistake to think that an inquiry is a simple and straightforward process. I acknowledge the point that Rosie Kane made when she drew a comparison with the Fraser inquiry, but very different matters are involved. We know from what has happened in Ireland that the decision to have an inquiry was the easiest part of the process. More than six years after that decision was taken, Ireland still has to find new legislative vehicles to get the work fully under way. I think that two acts of the Irish Parliament have had to be passed to enable that inquiry to take place and that amendments to those acts are being considered because of the changes in the Irish system that are required to allow evidence to be heard. Regard has had to be paid to the provision of various protections that are necessary for evidence of a certain kind to be obtained. That

raises all sorts of questions about immunity from prosecution and so on.

Although, on the face of it, having an inquiry might seem to be a simple proposition that would do the things that Rosie Kane suggests, it would involve entering hugely complex legal territory—I include the interests of organisations and individuals, both those who seek a remedy and those who seek to defend such claims. The situation is not straightforward. That is one of the reasons why we are anxious to get on with things. We want to do the right thing by survivors in the way that I have indicated and we are doing a huge amount.

The purpose of the inquiry in Ireland was not just to establish what happened. We know a huge amount about what happened and I have acknowledged that wrong things happened to young people in institutional settings. The issue is how we help the survivors now. We are addressing such issues in the way that I have described. We will be happy to discuss how we do that with a range of people and in my view we do not need an inquiry to do so.

As regards what we are doing to protect looked-after kids in the future, I have set out a range of measures that can be taken without holding an inquiry. We are taking those actions now; an inquiry is not necessary to trigger them. For all those reasons, we are not convinced that an inquiry would be the right way of doing things.

Rosie Kane asked about missing files. I am more than happy to do whatever my powers allow me to do to help people to locate files. The best way for me to do that might be for me to encourage organisations to help people to locate files. We have all sorts of contacts and arrangements with local government, which no doubt holds certain files. There are successor agencies to local authorities that may have access to files. I am more than happy to explore all of that. It is not in my—or anyone's—interest for such matters to be covered up in any way. The more they come out into the open, the better for all concerned. However, there are limits to my powers in that regard. We are talking about the need to interact with agencies that are entirely independent of Government, which must come to their own conclusions on such matters, but I will do everything in my power to encourage them.

Through Disclosure Scotland, we have new mechanisms for exposing people who may still be around in the system and who are believed to be guilty of abuse, and convictions have been made. We have other mechanisms, such as the register of people who are unsuitable to work with children, for alerting us to other individuals. Again, that is complicated territory, because of the burden of proof and the need to have evidence.

It is not in my interest—in fact, it is the opposite of being in my interest—for there to be a belief that there are people in the system who ought not to be in it because they are guilty of past abuse. I encourage all the agencies and individuals involved in the system to state their position, to make clear their suspicions, doubts and concerns and to have them investigated by the police, by Disclosure Scotland or by the people who are responsible for the register of individuals who are unsuitable to work with children. We need to ensure that we continue to make progress. I do not want such matters to be hidden; the more they become public, the better the situation will be.

The Convener: Rosie Kane has had a good bite at the cherry.

Rosie Kane: Other members had the chance to follow up their questions.

The Convener: You had a long time to ask a series of questions. A number of members are indicating that they want to ask questions. I am trying to keep the discussion on the subject of the petition. I want members to restrict themselves in the questions that they ask; it would also help if the minister could provide shorter answers, although I understand that, if he is asked a long question, he will have to give a long answer.

Rosie Kane: I do not think that I took longer than anyone else.

The Convener: I will let you back in, but I ask you please to make your questions a bit briefer. If we also get some briefer answers, that will give everyone a chance and we will not have to go on for too long before we get to the point.

Rosie Kane: I do not doubt that the minister is attempting to remedy the situation, but I think that holding an inquiry might be a more cohesive way of doing that. Perhaps we can learn from the experience in Ireland by approaching an inquiry in a different, more productive way.

Peter Peacock: I completely understand the arguments for an inquiry, but I have set out why the Executive has come to a different conclusion. We have dealt with the issue seriously and thoroughly, and I have set out where we stand.

Jackie Baillie: I will try to be brief. I will not rehearse the points about the public inquiry other than to say that I am disappointed with the decision. I am equally disappointed that it has taken two and a half to three years since many MSPs quietly raised the matter with ministers for action to be taken. However, I shall not be churlish but will welcome the fact that some of the things that you have said today are positive.

You said that you have an open mind about how you will engage with survivors of abuse. Can I push you on that? Your short-life working group

was set up 18 months to two years ago and had nobody on it who had a background with an historical focus on institutional child abuse. In that respect, although the group's work is worthy, there is something missing. How do you intend to plug that gap so that it is not just a question of your officials saying, "Let's have a conversation", but a question of there being a permanent mechanism in place to enable people to be listened to?

My second question is about information release. I heard what you said about local government and health, where there are missing records. What about the freedom of information regime as it applies to religious orders that were part of that whole package of institutional abuse?

Thirdly, I would like to clarify something. You seemed to invite the children's commissioner to consider the matter and perhaps even pursue an inquiry. Did I pick you up correctly on that?

Peter Peacock: On your last point, no, I was not asking the children's commissioner to pursue an inquiry. I was simply saying that the whole policy field has changed since a lot of the abuse occurred to some of the individuals. We now have a children's commissioner who, at her discretion, can do what she likes in that regard. If she wants to hold an inquiry, she is perfectly capable of looking into matters that relate to the Executive's performance concerning its policy on abuse. I am not suggesting or encouraging that, but merely pointing out a fact. It is a matter for the children's commissioner to decide her priorities and the matters that she wants to investigate. I was simply observing a fact rather than making a specific invitation.

On your point about freedom of information, the short answer is that I do not know; however, we will find out and will give you an indication of the position. There is also an information commissioner who is, rightly, entirely independent of Government and who would be able to give advice on the point that you raise. Nevertheless, we will establish that for you.

On your question about how open my mind is concerning engagement, I said that it is open and that is what I mean. I have an open mind as to how we do this. My officials have said to me in the past few days that one of the things that we, along with others, might think about is the fact that the short-life working group—for the reasons that you have given, as I acknowledged in my statement—concentrated on the survivors of sexual abuse. The issues that are under consideration here are much broader than simply sexual abuse.

One of the things that we might explore with people is whether we should continue that group but change its membership and allow that new group to take over the task and look at the things

that people feel have not been covered because of the group's focus on sexual abuse. My mind is open to that idea. However, we need to explore that issue openly with people, as there might be other things that we can do and suggest, and find out where we can go with it. We will let those conversations take place in that spirit and work out the right way of dealing with it.

Notwithstanding the fact that its recommendations were specific to sexual abuse, the short-life working group has come up with some pretty powerful recommendations, some of which would change the way in which public agencies perform and our whole consideration of the recognition of sexual abuse as a contributory factor to other conditions, such as depression and psychiatric illness. We know from what the group is telling us that although different percentages of the female and male population are subject to sexual abuse generally in society, in particular groups in society, such as the homeless, substance abusers and psychiatric in-patients, the proportion of people having suffered sexual abuse is significantly greater.

We also know that there is an under-reporting of sexual abuse in the system. That means that when people go to their doctor with a depressive problem, for example, it is not often recognised that at its root might be sexual abuse, therefore the symptoms, rather than the causes, are treated. In the same way that those issues apply to sexual abuse, we need to apply them more widely to other forms of abuse that people have suffered. We have tried to capture more of an understanding of that and therefore to give proper care to people in those circumstances. Do not diminish what the working group has done, but let us also look at how we extend it.

12:30

John Scott: If the measures that are being put in place are so effective—and we all hope that they will be—why are the survivors of the abuse still seeking an inquiry? Most of them share the same goal as we have, which is to ensure that abuse does not happen again. Do you accept that the public would be reassured by an independent inquiry that sought not only to uncover the problems of the past, but to evaluate whether the measures that have been put in place over the past 10 years, which you have described, are effective and whether other measures need to be taken? That is the important point. The minister will be aware that the Australian inquiry produced 39 recommendations, some of which go far beyond what you have suggested either needs to be done or will be done. That is why there is a strong case for an independent inquiry.

Peter Peacock: I completely understand that people would prefer a public inquiry for the reasons set out in the petition. I acknowledge where they are coming from. However, I have analysed the position that the Government took and how we examined the issue. We took the matter seriously, considered the issues and concluded that an inquiry would not cause things to happen that are not already happening or that we can make happen now. I have tried to acknowledge today that we completely recognise that people have been wronged in the past and that we need to redouble our efforts, but we do not need an inquiry to do that. That is why we have chosen the route that we have chosen, which is a different route from the one that the petitioner and others would much rather choose.

John Scott: The point is that you are judge and jury in this situation. The public are seeking independent reassurance, not just ministerial reassurance, but I am afraid that they are not getting it from you.

Peter Peacock: That is the privilege but also the burden of Government. That is why we are here. We have to make decisions and we are doing so openly. I have tried honestly to set out what our considerations were.

The kernel of your second point is whether an inquiry is necessary to evaluate the effectiveness of our policies, and I do not believe that it is. Part of what we are doing involves setting up a multi-agency inspection process for children's services, which we have not had before. Its purpose will be to test—independently of Government—whether our policies are working or need to be improved. When the inspectorate says that something needs to be done, it will get done. It is enormously powerful; it was designed to be so because we want people to scrutinise our actions independently.

I have also said that I am more than happy—we are planning to do this—to let the petitioner and his colleagues see all that we are thinking of doing on child protection. We genuinely want to get their feedback and to let them say, "In our experience, you need to add that dimension to your repertoire." If we think that such a suggestion is worth doing—and I have an open mind, because I want to have better child protection—we will do it. We do not need an inquiry to enable that to happen. We want to move forward on a range of issues.

I have read up on the Australian situation. You will appreciate that it is a Senate inquiry, not a Government inquiry. My understanding is that the Government has yet to reach a conclusion on the outcome of the inquiry. I happened to be in Australia earlier this year, partly because I wanted to compare our child protection policies with those of New South Wales, which had major problems

with child protection. I met the New South Wales commissioner for children and young people when I was there. From the conversations that we had, I know that while New South Wales has been making important policy changes, our policy approaches are regarded as significantly in advance of what is happening in Australia.

I am not in any way saying that I am complacent. I have also said that if I find anything anywhere in the world that will help us to add to our thinking on how we can better protect children, I will try to adopt it, because that is my job—I want to protect children better. Again, neither I nor any of my colleagues need an inquiry to tell us to do that. Child protection is at the top of our agenda and we will do whatever is necessary in that regard. If anybody wants to tell me about anything that they think that we should be doing, my ears are open. If we think that we can reasonably follow their suggestions, we will do so.

Ms White: No one is in any doubt about the fact that the survivors of the abuse do not want what happened to them to happen to anyone else. However, that is only one of the main issues. Another is that the victims want the fact that they went through those experiences to be recognised. They want to be believed. You have not mentioned that much today.

You have said that the Government is issuing an apology, but that the institutions can decide whether they do likewise. That is not good enough. There should be a Government recommendation that they say sorry and admit that the abuse happened. Without an inquiry, I doubt that that will happen.

You give three reasons why an inquiry would not be in the best interests of the public, the first one being that it would not bring about changes in current practice. However, in answer to Jackie Baillie's question, you said that the children's commissioner could examine local government agencies and so on, which means that you are admitting that abuse could happen again. That admission came out of this small inquiry that we have held today.

You also mention the fact that an inquiry would open up old wounds. That may be true, but it would also do something to rectify some of the suffering that the victims have gone through because, half the time, people have not believed that the abuse was happening. For example, the police were told of children's allegations about a particular person in a Quarrier's home, but the person was allowed to continue working in that home. I would hope that an inquiry would stop those bad practices happening again.

You talk about an unfair and damaging loss of confidence in institutions. I have to say that there

will be a damaging loss of confidence in you, the Scottish Executive and the Scottish Parliament if there is no public inquiry because, as you said, people will think that the issue is being swept under the carpet because you have something to hide.

You mentioned the fact that, in Australia, the inquiry is being run by the Senate. To me, that is just hiding behind pieces of legislation. I am sure that the Australians will come up with appropriate recommendations as a result of the inquiry.

You say that you are setting up helplines and counselling services for people. Recommendation 6 of the Australian inquiry says that churches and institutions that were involved in the abuse should pay some form of compensation. That is close to what we are looking for in Scotland.

In the interests of the victims and to stop abuse happening to anybody else, we must have an inquiry.

Peter Peacock: My point about the Australian inquiry was simply a statement of fact: it was a Senate inquiry not a Government inquiry. The Australian Government is still to give its verdict on the recommendations and we will need to wait and see what its verdict will be.

I completely reject any allegation that the Executive is trying to sweep this matter under the carpet. I have gone out of my way today—

Ms White: In your opening statement, you said that, if you do not hold an inquiry, people might think that you are trying to sweep the matter under the carpet. I was just repeating what you had said.

Peter Peacock: That is the point that I was going to make. I acknowledge the fact that people might come to that conclusion if we do not hold an inquiry, which is why I have gone to the lengths that I have gone to today to try to make it clear that it is not in the Executive's interest to have the matter covered up. In fact, it is in our interest to have as much exposure of the issue as possible as that will ensure that we get our policies sorted out and are able to provide the protection that will ensure that such abuse does not happen again.

I have tried to say that I recognise that things happened to people in the system that were completely wrong. People can read the *Official Report* of today's meeting to see what I have said about that. However, I must stress that it is not clear that any inquiry, whatever its findings, could cause a third-party institution to make an apology. It might encourage that to happen, but it could not cause that to happen.

Ms White: Are you saying that, under existing Scottish legislation, if there were a public inquiry, the institutions concerned in the matter, such as churches and the Quarrier's homes, would not

have to give evidence or apologise? Surely that would make it worse for them.

Peter Peacock: That is what I am saying. Those agencies have to make decisions about what they do. They are autonomous, independent agencies; they are not part of the apparatus of the state. The state, or an inquiry, could not, in my view, require them to make an apology. Depending on the rules of engagement, the bodies concerned could potentially be required to give evidence to a parliamentary or other inquiry, but they could not necessarily be required to give an apology.

Ms White: We know that lots of these places—

Peter Peacock: But we have a situation in which—

The Convener: I do not want this to get into an argument. You have made your point, Sandra, and the minister has answered it. There are other members who wish to participate. The petitioner's constituency member, Janis Hughes, is with us; I invite her to ask some questions.

Janis Hughes (Glasgow Rutherglen) (Lab): I thank the committee for this opportunity to participate in the scrutiny of the petition. As the convener said, the petitioner, Chris Daly, is my constituent. I am aware of the large amount of support that he has attracted, both from the INCAS group and from further afield, in bringing the petition to our attention. He has asked me to mention letters of support from ChildLine Scotland, Children 1st, the Moira Anderson Foundation and the cross-party group on survivors of childhood sexual abuse. The INCAS group has collected 1,100 signatures from members of the public who support its aims.

You commented, minister, on the Irish inquiry, and also referred to the Australian inquiry. I believe that there was also an inquiry in Canada. Some fairly good inquiries into institutional childhood abuse have been taking place across the world. I am disappointed that you do not wish to hold an inquiry at this stage. You said that you understand and empathise with the survivors whom we are discussing and I am sure that you would understand that, notwithstanding your comments about the possible use of methods that have been proactively helping to stop institutional abuse occurring, the people concerned are seeking some sort of closure in relation to what has happened in the past. An inquiry is one way of aiding that process. You said that some survivors might not welcome an inquiry. Can you give us any evidence for that?

Peter Peacock: On your last point, we are aware from some correspondence that we have received that not everybody is seeking an inquiry. Some people would rather that the resources that an inquiry would eat up went into providing

services. However, I do not wish to overstate that. I completely recognise that there are strong views from others who want an inquiry. I was simply recording the fact that not everybody wishes one.

Janis Hughes: You mentioned the number of legal cases that are pending. One problem relates to the files and records that were not previously available. I will ask you two things about that. First, you talked about the timescale concerning the files that you are in the process of redacting. Could you be more specific as to when we might expect those files? What is the extent of the information that they will contain?

Secondly, comment has been made this morning about other organisations, including the Catholic church and other religious orders. Have you met those organisations to ask them to make available information about the files that they hold? Although you can provide the files over which you have control, it may well be that other institutions are not coming forward so readily. Would you be prepared to meet representatives of those organisations and to encourage them to do as you are doing and release information?

Peter Peacock: I will start with the point about timescales. We want the files to be ready, and expect that to be the case, before Christmas. In practical terms, that probably means that the files will be physically available immediately after the new year holiday. I am not sure whether this has happened yet, but my officials are planning to show the petitioner the process of redacting the files, so that the petitioner, the INCAS organisation and others understand what that means. Redacting is quite a technical process. People should be reassured that it is being done in a thorough way.

I asked my officials about the extent of the information in the files the other day; there is the danger that we raise people's expectations too high. There is some personal information in the files, but there is also a huge amount of routine information about the institution as a place—about the building and its systems. There are inspection reports and a whole ragbag of other things in the files, including personal information.

As I indicated, we are making the files available to make it clear that we want people to see the information and to use it, if that is appropriate, when they pursue their particular interest. It is entirely in our interests to be open about that. I cannot say whether people will find what they are seeking; individuals will approach the matter from very different points of view. There will be a huge range of information in the files, some of which will be trivial. Some files will contain information about bits of buildings as well as individuals.

We have focused much of our effort on internal procedures for making clear the information that we have, which has taken us a bit of time. We have consulted Barnardo's and Quarrier's homes, which have a number of years' experience of the matter, about the action that they have taken and the sophisticated support systems that they have put in place. I have not yet approached the church or any other institutions—I do not think that my officials have done so, either—to encourage them to take action. I have an open mind and I see no reason why I should not do that. I will think about the point that Janis Hughes raised. As I said, there is no blockage in my mind about explaining to the church what we are doing, and sharing the process that we are going through, to encourage the institution to learn from that and make its files available to people. I would be more than happy to do that, but I will think about the best way of doing so.

12:45

Janis Hughes: That would be welcome. I am pleased that you have said on a number of occasions that you have an open mind and that the matter is not a closed book. I have a final question—I will be brief because other members want to ask questions. You said that you want to work closely with INCAS and that your officials have met the group. Will you meet the group to discuss how to progress that work?

Peter Peacock: I would have no difficulty with that. I would be happy to meet the group.

Mike Watson: When we started discussing the petition an hour and a half ago I was concerned, but now I am quite angry. The minister has not dealt with the issues. The Public Petitions Committee must try to deal with the petitions that come before it. I take it that you have seen PE535.

Peter Peacock: Yes.

Mike Watson: The petition explicitly calls for "an inquiry into past institutional child abuse"

and seeks an apology for that abuse. Although the information that the minister provided in his letter of 13 June and in his opening statement is important and refers to essential work that any Government should be doing—a Government that was not taking such action should be moving quickly to do so—the minister has not dealt with the petition. The petition is about what happened in the past. For one reason or another, people are locked into that past and cannot escape from it. Some of them might never escape from it—*[Interruption.]* Indeed, as a member of the public just said, some people have been driven to suicide. However, people want the opportunity to try to escape from that past.

The petition raises a fairly narrow issue, which you and your officials have widened in a way that is not helpful to the petitioner, although you are obviously dealing with important issues. For example, one of the headings in your letter asks

“Whether an Inquiry would prevent future abuse”.

That is not the issue. You have outlined action that might help to prevent future abuse. Your letter questions whether an inquiry would be in the public interest. There is a huge amount of public interest in the issue. Films have been made about it.

Perhaps the most surprising comment that you made was in response to Janis Hughes’s question about the religious orders, when you said that you had not really thought about the matter and that you might look into it. Surely the matter is inextricably linked to the whole issue. I found your remarks worrying.

I am also worried about the great play that is being made of the short-life working group. As Jackie Baillie said, the group has been in existence for a long time and considers the survivors of childhood sexual abuse in general. The group does not consider institutional abuse—physical and psychological—it does not have a great deal to contribute to the issue and, as far as I can see, it does not have anything to contribute to the petition.

What can you say on the subject of the petition? The petitioner calls for an inquiry into past institutional child abuse. I accept that some of those who were subject to that abuse would not want to be part of an inquiry, but they do not need to be part of it. The petitioner also calls for an apology. I am aware that you cannot speak for outside organisations, but surely you could apologise on behalf of the state bodies—the list D schools and so on.

After an hour and more, surely we can have answers to those two questions without the minister needing to say what may or may not be the provision for ensuring that these things do not happen again.

Peter Peacock: Okay. As I acknowledged in my statement, and in my response to Jackie Baillie, I hope that I have recognised the limitations of the short-life working group in this respect. The group is constituted to examine childhood sexual abuse and the subject of PE535 is broader than that. I accept that completely. As I indicated in my response to Jackie Baillie, we are more than happy to look at how to broaden the scope of the group or at how we could continue the group so that the wider issues could be looked into. I have no problem with that whatsoever.

On the specifics of the petition, I have looked back through my notes but I cannot locate the note on the exchanges between the Public Petitions Committee and the Executive back in February 2003, at which time other issues that were part of what lay behind the petition were brought out and we furthered our knowledge of the concerns of the petitioner.

From the discussions that our officials have had with the petitioner, we know that he is concerned and anxious not only about past events, but about what happens today and in the future as a consequence of people learning the lessons of past experience. Mike Watson rightly pointed that out. I tried to deal with those issues in order to set out the whole picture of why we take the view that we do of the inquiry.

On the subject of an inquiry into past abuse, I have tried again today to set out that, if part of the purpose—and it has to be part of the purpose—of a public inquiry is to cause the Government to acknowledge publicly that there had been past abuse, there is no need for one, given that I have made that acknowledgement today. I said that we acknowledge that there has been abuse; children were wronged—

Mike Watson: With respect, that is not the issue. There is no doubt about that.

Peter Peacock: What I am saying is that that is part of the purpose of a public inquiry. We are not saying in any way that past abuse did not occur. We are saying that we know that it occurred in the system in the past.

I have also tried to go out of my way today to express our association, as an Executive, with the sense of outrage and betrayal that people feel. People carry guilt that they should not have to carry because they were not responsible for what happened to them. Indeed, the situation is quite the opposite: those people were the innocent parties. As members will see from the *Official Report* when they check it, I have tried to express our sorrow that those events occurred. I am trying to do that honestly and openly. I am not seeking to condone, hide or cover anything that happened in the past—it would be wholly wrong of me to do so.

Again, if that was part of the purpose of the inquiry, I am prepared to do that today without the necessity for an inquiry. The Executive came to its conclusions on an inquiry for the reasons that I have tried to set out as honestly as I can.

The Convener: We have six further petitions to deal with today. Two MSPs are visiting the committee to take part in this debate on PE535. I propose that we take their contributions now, after which I will close questions to the minister.

Karen Gillon (Clydesdale) (Lab): I have two questions, minister. First, what is the timescale for the Scottish Law Commission inquiry? My experience of the commission is that it takes rather a long time to come to a conclusion. Obviously, people are struggling with some of these issues and are debarred from taking legal action at this point in time. Secondly, acknowledging something is not apologising for it. Are you formally apologising for the actions of the state in respect of child abuse?

Peter Peacock: On the second point, as I have tried to make clear, we are in the midst of legal proceedings and particular words have particular connotations in terms of those proceedings. I have tried to go as far as I can today in making it clear where the Executive stands, what we believe and how we empathise with people's feelings and recognise the consequences of what happened. I have expressed our profound sorrow, in concert with others, about the things that happened. That is as far as I can go on the matter today.

I will have to come back to the committee on the timescale of the inquiry. I am not clear about the exact terms of the correspondence with the Scottish Law Commission. Members will appreciate that any inquiry that the Scottish Law Commission carries out on matters of law takes some time, as these are complex matters. The important point is that the Executive has triggered the commission's consideration of the issues, to ensure that they are bottomed out for the future.

Linda Fabiani (Central Scotland) (SNP): I will be fairly brief. I concur absolutely with what Mike Watson said. There is on-going frustration about the failure to address this petition. The matter has been under consideration for an awfully long time. Way back in June 2003, the First Minister said that he had ordered a study of the Irish model. Are you willing to let us see the results of that study and what led you to conclude that there should not be an inquiry?

I understand that you are saying that you do not want an inquiry. You raised three issues. The first was the question of whether an inquiry would prevent further abuse, which has been well covered today. The second was the question of whether it would help to meet the needs of survivors. You said that some people might welcome an inquiry, but that others would prefer the issue not to be raised in public. I put it to you that many more people might come forward if an inquiry was held, as it would indicate to them that their experiences were worth listening to, with a view to improving our society. The shame and guilt that people talk about would be alleviated by an open inquiry.

Thirdly, you say that there is public interest in this matter, which is, of course, correct. In your letter you say that the public

"need to be reassured that such abuse cannot recur"

and

"that lessons have been learned."

However, first the public must know and recognise that the abuse happened on a fairly horrendous scale. That is apparent from the cases of those people who have been brave enough to come forward. Their claims deserve to be validated.

I understand that you may find it difficult to apologise at the moment because of legalities. Let us make the situation clear by holding an inquiry, so that you can make a full apology and, I hope, strongly encourage the institutions involved to apologise as well.

I would like you to clarify one point. You say that individuals are

"pursuing their legal rights to compensation through the civil courts"

and that

"we would need to be very careful not to jeopardise that process through an inquiry."

Why would an inquiry jeopardise people's legal rights to compensation?

Karen Gillon mentioned the review of time barring. Is it in the Executive's power to say that cases such as this will not be time barred but can be carried through, with or without a review?

When you decided not to hold an inquiry, who informed that decision? Who did you consult about it? Did you receive information and lobbying from some of the institutions that may be involved?

Peter Peacock: To the best of my knowledge, we were not lobbied. I have not been lobbied by any of the agencies involved. If we had been lobbied not to do anything about the case, little regard would have been paid to that. Nothing of that sort has happened.

The time bar is a matter of law. If the Scottish Law Commission suggests that changes could appropriately be made, that will be a matter for primary legislation. I will check the record for the full detail of your question and come back to you on any technical points.

13:00

You mentioned jeopardising individuals' interests. If we held an inquiry, a range of issues would potentially come into play. I mentioned some of those in an earlier answer about the situation that has developed in Ireland and what has had to be done there to create a climate in

which people feel that they can give evidence on their experience not just as victims, but as members of institutions at a particular time. In those circumstances, all sorts of questions arise about protections and immunities that would allow people to feel able to give evidence. I cannot predict what would happen if an inquiry were held; I say only that all these issues would suddenly come into play. A number of individuals might also be advised not to pursue individual claims because of the imminence of an inquiry. Given what we have seen in other areas, we could be talking about many years before a person could make a claim, so potential issues arise in relation to that. There are also questions about burdens of proof and evidence in relation to inquiries. Given the nature of some of the concerns in this case, an inquiry would become a legalistic process because of the interests of the different parties around the table. The rules of evidence at an inquiry are potentially different from the rules of evidence in court. All that I seek to say is that a range of considerations come into play when there is an inquiry. There is potential for unintended consequences from that process.

In answer to the question whether we know that abuse took place, I have tried to say clearly several times today that, yes, we do know that abuse took place. We are trying to acknowledge that that is entirely unacceptable for the reasons that I have set out. We do not require an inquiry to acknowledge that abuse took place. I understand the point about people coming forward. I encourage people to come forward, whether or not there is an inquiry. It is entirely in the interests of everybody in this situation—*[Interruption.]* I will try to answer the question of “To who?” from the public gallery.

The Convener: If members of the public did not shout out, that would allow—

Peter Peacock: Indeed, but I will take the question in the spirit in which it was intended. One could make representations to a range of people I have mentioned today, such as the police and other institutions and organisations—not least to people around this table—about matters that they believe require to be aired. As part of the work that we plan to do with survivors, I will look with my officials at opportunities for people to say what they feel they have to say to unburden themselves.

I am clear that we have given the petitioner access to a pile of paperwork that informed our decisions and there is no reason why the committee cannot have that as well.

The Convener: Thanks very much, minister. I appreciate your taking the time to answer questions in as much detail as you could. Committee members will now discuss among

themselves the information that you have presented us.

Do members want to take five minutes to collect their thoughts before we discuss our approach to PE535, or shall we just carry on?

John Scott: Carry on.

The Convener: Okay. As I said, we are in a process that is not unusual: we take evidence, we gather information and then we take decisions on what we can do in support of any petition that comes before us.

I want us to stay focused on what we should do now, having heard the minister's response. In the normal course, we would go back to the petitioner to say, “This is the information that we have received. What are your comments on it”. In this case, the petitioner has seen the response from the minister and has already submitted a response to it. Members might wish to return to the petitioner in light of the oral evidence that has been presented this morning. Other options might be available to us and I would be interested to hear if anybody has any suggestion as to what we can do, other than to go back to the petitioner. It is not that I want to sound dismissive in any way of views that the petitioner might have, but the petitioner has clearly expressed his views on the minister's response and I seriously wonder whether, in going back to the petitioner, we would be delaying our decisions unnecessarily. We could conclude here and now that we go back to the petitioner, leave it at that and then await the petitioner's response. However, in light of today's discussion and the strength of views that we have heard, I think that we want to be seen to be acting as positively as we can. It might be worth considering that. It might be a disappointment to the petitioner if we do not go back to him, but equally, it might be of some value to him if we drive on.

I suggest that we decide now about what we positively want to do with the petition. As I have mentioned before, the Conveners Group has discussed the time that is allocated to committees to hold debates on issues that come before them. I have always said that we would not take anything to the Conveners Group unless the committee felt that it should use that nuclear option. I wonder whether this petition might be one such matter and whether we could ask the Conveners Group to find time for us to debate the petition in the Parliament in our committee time. I throw that into the discussion, but I would be more than happy to hear any other suggestions from members.

Ms White: I think that that is a good move forward. The issue has been raised twice before in the Public Petitions Committee and people obviously get frustrated when we just say who we

will send the petition to. My idea was to send the petition to the First Minister with the recommendation that a public inquiry should be held, but I know that the clerk will say that we do not have the power to do that. Is that correct?

The Convener: Once we have considered the petition, we can do that if that is our recommendation, but we would not do it until we had taken all the evidence that we could. If our conclusion is that we should ask the First Minister to hold an inquiry, that is our conclusion, but I would resist doing that until we had concluded our considerations.

Ms White: That is what I wanted to clarify. I think that your idea of discussing the matter in Parliament is an excellent one, as that would give everyone the opportunity to have a say. Perhaps more evidence can be brought forward, and then we can make a decision. I absolutely support that suggestion.

John Scott: I agree. It is a good suggestion that we should debate the whole subject in Parliament. The Public Petitions Committee must do all that it can to represent the petitioner's views and those of others elsewhere in Scotland who have suffered from such abuse. The minister said more than once today that he will do anything in the world to help, but the one thing that he will not do—and the one thing that the people of Scotland actually want him to do—is hold an inquiry. What is he afraid of? The questioning seemed to me to elicit the feeling that he is almost afraid of what an inquiry might reveal, and that is worrying. Debating the matter in Parliament would be worth while indeed.

Rosie Kane: That is an excellent suggestion. Today's acknowledgment is important, even if there was no apology. It is important to acknowledge that the abuse took place. I was not here when the issue was discussed previously, so what I am going to suggest might have been done, although I doubt it. John Scott is right to ask what people are hiding from. Do we have any way of communicating with the Catholic church and other agencies to see whether they will join in the minister's acknowledgement? Can we speak to them, write to them or communicate with them in some other way?

The Convener: My view is that we could. We write to all sorts of organisations that are mentioned in petitions. In fact, we decided some time ago that, if an organisation was mentioned in a petition, we would contact it to make it aware that it had been mentioned and to give it an opportunity to respond. What Rosie Kane suggests is something that we would have to do, rather than something that we might debate doing or not doing. We obviously want to invite any organisation mentioned in a petition to give its views.

Rosie Kane: We need to make the church aware of the Parliament's acknowledgement that the abuse has taken place. We need to ask the church to express its acknowledgement and an apology, given that it says that sex education is child abuse. What the petition deals with is child abuse.

Jackie Baillie: I think that you will get unanimous support for your suggestion that the matter should be debated in the chamber. I know that a number of MSPs have been engaged with the issue in the past who would want that opportunity to be exercised.

There are some specific points, although they are not related directly to the terms of the petition, on which I feel we should push forward, simply because the minister invited us to do so. We want from him, from the INCAS group and from Christopher Daly views on the mechanism of engagement that they believe would be helpful in the future. None of that would preclude our having a public inquiry, but we could get specific information about all Government institutions that will be covered by the minister's commitment to the release of Government information. We should also explore whether the freedom-of-information regime applies to religious orders.

We should further write to the minister with a clear view about the timetable for the Scottish Law Commission, not least because it is not just the commission that takes time to react to things; the Executive often takes time to consider reports from the commission, so time can be of the essence. The minister said that one of the key arguments for not having a public inquiry was that some survivors might not wish it. He suggested that letters were received. Without going into who the individuals are—that would not be appropriate—it would be helpful to know the scale of correspondence: whether it was from individuals and, if so, how many; whether it was from organisations; and whether it represents a significant view or a minority view.

Janis Hughes: Jackie Baillie's comments are helpful. I would welcome the opportunity to debate the issue in Parliament, because it is bigger than to require the involvement of just the Public Petitions Committee, as is shown by the fact that three MSPs who are not members of the committee are present. I know that a number of other MSPs also have an interest. The petitioner has specifically requested to be able to come to the committee because he was unwell when the petition was presented and was therefore unable to attend. I want to confirm that you would seek the petitioner's view on today's proposals. A parliamentary debate would certainly be welcome.

The Convener: We automatically advise petitioners of the outcomes of our discussions and

the decisions that we have made. I understand that the petitioner wants to come before the committee, but he has had a few opportunities to contribute to our discussions in writing. I wonder whether there would be value in holding up the progress of the petition just to give the petitioner the opportunity to come before the committee. I do not mean to be dismissive; the petitioner will get the opportunity to respond in writing to everything that has been discussed this morning.

Campbell Martin: I support our taking the petition to Parliament for debate. If we were to do that, would we as a committee lodge a motion in the same terms as the petition?

The Convener: We would have to think about the wording, but the motion would be that Parliament debates PE535. The discussion would be around the petition. We would have to get the form of words right, but the purpose of the motion would be to get Parliament to discuss the petition.

Campbell Martin: How quickly is that likely to happen?

The Convener: We would have to go to the Conveners Group and be allotted a slot, just as the political parties are. I would argue that the petition be given priority, but I cannot guarantee a timescale.

John Scott: It would also be a matter for the Parliamentary Bureau and the Minister for Parliamentary Business to slot in a debate if the Conveners Group agreed.

The Convener: The business bureau allocates time to committees; the Conveners Group then allocates the committees the time, if you see what I mean. We have to enter into discussions about priorities and allocation of time, which is why I cannot guarantee when a debate would take place.

Karen Gillon: I welcome the convener's comments and suggestion. It is entirely appropriate that the committee, rather than any one political party, seek a slot to debate the petition. The degree of consensus around the table is important; if we can build on that momentum, we will begin to achieve what the petitioners seek. It is entirely appropriate that the committee rather than any individual or party drive forward the issue.

The Convener: I do not know what slots are available between now and Christmas, but I will go to the Conveners Group and ask for a slot if one is available. I will obviously come back to the committee and tell you what is available and what we have been able to achieve. I give you the commitment that I will go to the Conveners Group seeking the earliest possible slot in the timetable, which I hope will be before Christmas.

Are members happy to write to all the interested bodies and to pursue the proposed course of action?

Members indicated agreement.

13:15

The Convener: Do members want five minutes' break or will we press ahead?

Jackie Baillie: Given that many members have other commitments—

The Convener: We will press on.

Jackie Baillie: I was going to suggest that we hold petitions over for a future meeting. Would that be difficult?

Helen Eadie: Do we have a meeting on Tuesday?

The Convener: We have a meeting on Tuesday, but people have sat all the way through today's meeting.

Jackie Baillie: Fine.

The Convener: I ask members to bear in mind the time. I want to give each petition adequate time. We will choose which petitions to hold over. If members stay focused, we will go through the petitions as quickly as we can.

High Court (Appeals System) (PE617)

The Convener: Petition PE617 is on establishing a system of independent appeals against High Court decisions. The petitioner calls on Parliament to take the necessary steps to establish such a system.

At its meeting on 28 April 2004, the committee considered responses from the petitioner, the Executive and the Crown Office and agreed to ask the Crown Office to respond to a point about offering explanations to witnesses who are not called to give evidence. On the basis of a response from the petitioner that suggested that the committee had misunderstood the point of his petition, the committee also agreed to seek clarification from him of his petition's aims.

The Crown Office's response says that it is

"in the final stages of reviewing the guidance issued to members of staff"

on providing information to victims and witnesses and that it expects

"the revised guidance to be issued imminently."

In his response, the petitioner says:

"The specific aim of this petition would see an independent body, free of prejudice, set up to investigate claims from victims and victims' families regarding

decisions taken by the Crown Office, during and after trials."

Do members have views on the petition?

Mike Watson: Given the Crown Office's statement that it is waiting for revised guidance, we should take no further action.

The Convener: Are members happy with that?

Members indicated agreement.

The Convener: We will close the petition and await the outcome of the review.

Public Finance and Accountability (Scotland) Act 2000 (PE683)

The Convener: Petition PE683 is on the annual audit of public expenditure. The petitioner calls on Parliament to modify the Public Finance and Accountability (Scotland) Act 2000 to expand the annual audit of the bodies and office-holders that the act mentions to include examinations of technical as well as financial matters.

At its meeting on 31 March 2004, the committee considered the Executive's response and agreed to invite the petitioner's comments on that response. The petitioner said:

"I have reluctantly come to the conclusion that it is pointless in making any further submissions since my experience in PE 601 with the Scottish Executive is that it does not matter how relevant an argument actually is they will simply ignore it."

On the basis of the petitioner's response, no further action is required on the petition. The petitioner has basically told us to drop it. Is that agreed?

Members indicated agreement.

Bone Marrow Register (PE687)

The Convener: Petition PE687 is on the donation of bone marrow and blood stem cells. Before proceeding with discussion of the petition, I must inform members—I think that they know, but I say this in case they do not—that, sadly, Millie Forbes, the patient whose search for a bone marrow donor was the catalyst for the petition, died at the end of July. A donor for her was located but, unfortunately, her leukaemia returned. I am sure that we all wish to pass on the committee's condolences to Millie's family when we respond to the petitioner.

The petitioner called on Parliament to urge the Executive to run a campaign to encourage the donation of bone marrow and blood stem cells through a bone marrow register, and to recognise and support organisations that recruit bone marrow donors.

At its meeting on 28 April 2004, the committee considered a response from the Minister for Health and Community Care and agreed to invite the petitioner's view. The petitioner highlights in her response the need to publicise widely the Scottish National Blood Transfusion Service and the Anthony Nolan Trust. The committee has also received a response from the Anthony Nolan Trust that says that the number of donors that are recruited from Scotland—at 2.5 per cent of the United Kingdom total—is woefully inadequate, that a campaign should be run to encourage bone marrow donation and that a long-term strategy to support patients who need transplants should be developed.

I would welcome members' views on the responses.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): The Millie campaign attracted a lot of media and public attention and, as a result, many people took part in the bone marrow banking process, which is to be welcomed. We should do anything we can to improve the situation and to make the public aware that the procedure is a simple one that has tremendous benefits for the recipients of the treatment. As you said, convener, poor Millie received treatment too late, but such treatment has been of great benefit to others. The committee should support the petition in any way possible.

John Scott: I agree that we should ask the minister to respond to the issues that the petitioners raise. We could also suggest the provision of publicity at blood donation centres and doctors' surgeries throughout the country, with a view to getting more donors.

Mike Watson: I agree with those comments. I see Geva Blackett in the public gallery—she has waited a long time for what will be brief consideration of the petition, but we are treating it seriously.

I was struck by the figure that 2.5 per cent of volunteers on the register come from Scotland, whereas I recall that the population of Scotland is about 8.5 per cent of the population of the United Kingdom. The percentage of people on the register is well short of that figure. Any action to push it up at least to the UK average would be beneficial.

The Convener: We must write to the minister and ask for a response. The petition has highlighted inadequacies in the system and we need to find out what the Executive plans to do about that. We run campaigns on a host of issues, and the issue that is raised in the petition seems to be one that requires a lot more attention. A failure to obtain the required number of donors is apparent, so we need to know from the minister

why there is no on-going campaign. We must impress upon him why a campaign is needed; there is no harm in letting the minister know that we support the aims of the petition.

John Farquhar Munro: The general public seem to be of the opinion that the process of bone marrow transplanting and donation is complicated and drawn out but it is, in fact, a simple procedure that is undertaken quickly at a clinic. A bit more education on that might be helpful.

The Convener: Do members agree to write to the minister with those comments?

Members indicated agreement.

Rules of Court (PE722)

The Convener: Our next petition is PE722, on the rules of court, which calls on Parliament to urge the Executive to introduce legislation to abolish rule 4.2(5) of the rules of court.

At its meeting on 28 April 2004, the committee agreed to seek comments on the petition from the Executive, the Faculty of Advocates and the Law Society of Scotland. In its response, the Executive explains the rationale behind the decision to introduce rule 4.2(5). The response of the dean of the Faculty of Advocates states that the rule

"provides a necessary safeguard or mechanism for dealing with the situation where a member of the public is unable to obtain the written sanction of a practitioner for a proposed Court action."

The Law Society response states:

"the Rule is a useful safeguard against frivolous or vexatious litigants."

Do members accept the responses and the reasons for the existence of the rule and agree to close the petition?

Members indicated agreement.

Food Supplements (European Directive) (PE738)

The Convener: Petition PE738 is on the food supplements directive's maximum permitted levels of vitamins and minerals. The petitioners call on Parliament to urge the Executive to ensure that the voice of consumers of vitamin and mineral supplements is heard as the European Commission prepares to set maximum permitted levels as part of the food supplements directive, and to consider all the options, including a derogation that would allow Scots consumers to access supplements with the currently available vitamin and mineral potencies.

At our meeting on 26 May 2004, we agreed to ask the Minister for Health and Community Care for an update on developments since his response to the European and External Relations

Committee's report on food supplements and traditional herbal medicine, and to pass a copy of the petition to that committee for its information. In his response, the minister states that it would be inappropriate for him to seek to intervene in the independent process of scientific risk assessment that is being undertaken.

The European and External Relations Committee wrote to the minister to urge the Executive and the UK Government to press the European Commission to establish maximum permitted levels that are close to the levels that currently apply in Scotland. At its meeting on Tuesday 28 September, the European and External Relations Committee considered the issue further and agreed that it was appropriate that it should take no further action and that it was for the Food Standards Agency to take the matter forward. On that basis, our committee might wish to consider closing the petition.

Helen Eadie: I note that the first paragraph at the top of the second page of the minister's letter states:

"Formal reference to the ECJ was sent in March 2004. The ECJ normally takes approximately 24 months to give a preliminary ruling; however, the national court has requested expedition by the ECJ."

The formal reference to the European Court of Justice is an important step.

I was the reporter to the European and External Relations Committee who produced that committee's report, so I am concerned to ensure that the maximum permitted levels are safe. I believe that we should write to the Minister for Health and Community Care to ask him for an update on any developments in the ECJ since his July letter. In particular, we should ask whether the Executive has any plans to undertake research on the maximum permitted levels and to consult on those before the relevant instrument comes into force in two or three years' time. We could ask him about various issues, but those would do for the moment.

John Scott: My counter-proposal is that we refer the petition to the European and External Relations Committee. I welcome the fact that the UK expert group on vitamins and minerals has carried out valuable research to guide us, but we should pass the petition to the European and External Relations Committee.

The Convener: The European and External Relations Committee considered the issue yesterday and closed the matter by passing it to the Food Standards Agency. We could send the petition to that committee, but it already has virtually all the information. I suggest that there is not much more that we can do with the petition.

Helen Eadie: I dissent: the issue is important, although I accept that that may not be the view of other members. Given that the case is still live in the European Court of Justice, Parliament should perhaps keep a weather eye on it. I do not know what view the European and External Relations Committee took on that yesterday, but I think that the issue is worth noting.

The Convener: The European and External Relations Committee concluded that the issue is for the FSA, but that does not mean that we could not write to the Minister for Health and Community Care—for information if nothing else—and close the petition at that. However, there is nothing further that we can do with the information.

Helen Eadie: How would we get the information back if we closed the petition?

The Convener: We could keep the petition open in the hope that the minister will respond with further information.

John Scott: The Minister for Health and Community Care has already responded. His response was utterly reasonable.

Helen Eadie: His letter states that the issue is being considered by the European Court of Justice. Given that the matter has been formally referred to the ECJ by the national court, which has requested expedition by the ECJ, the Parliament and the Minister for Health and Community Care should be kept informed. Lots of petitioners came to Parliament because of the issue. At a public meeting and in the debate, Margo MacDonald and others expressed real concern about the issue. We should not put it one side by closing the petition.

The Convener: Are members agreed that we should write to the Minister for Health and Community Care to ask for a response on the points that Helen Eadie has raised?

Members indicated agreement.

National Dance Hall (PE742)

The Convener: The final petition calls on the Parliament to urge the Executive to ensure that Scotland has a national dance hall located in Edinburgh.

At our meeting on 26 May 2004, we agreed to write to the Minister for Tourism, Culture and Sport to seek confirmation on how ballroom dancing fits into the Scottish Executive's national cultural strategy. In his response, the minister states that the Executive has no plans to create a national dance hall in Edinburgh and that it is for the commercial sector to provide suitable venues if it feels that there is sufficient demand for dancing.

Do members have any views?

Ms White: I enjoy dancing, but I do not see how we could have a national dance hall in Edinburgh, Glasgow or elsewhere. It is a laudable idea that people should take up exercise. Perhaps the City of Edinburgh Council could do some advertising to encourage people to take up dance, but I do not see what action we could take on the petition.

13:30

The Convener: When we discussed the petition, we concluded that we could not make anyone open a dance hall. That is a matter for the commercial sector. Our purpose in writing to the minister was to ask whether a national dance hall might fit into the existing strategies for dancing, music and sport. The minister's response arrives at the same conclusion that we had.

A number of us have been contacted by the petitioner, who is a dedicated person who is committed to her leisure pursuit. I wish her every success in promoting that, but we need to be realistic. Parliament and the committee cannot do anything to address the petition's primary purpose, which is the creation of a national dance hall.

Is it agreed that we should close the petition?

Members indicated agreement.

Meeting closed at 13:31.

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