

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 10 November 2004

Session 2

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## PUBLIC PETITIONS COMMITTEE

17<sup>th</sup> Meeting 2004, Session 2

### CONVENER

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

### DEPUTY CONVENER

\*John Scott (Ayr) (Con)

### COMMITTEE MEMBERS

\*Jackie Baillie (Dumbarton) (Lab)

\*Helen Eadie (Dunfermline East) (Lab)

Rosie Kane (Glasgow) (SSP)

Campbell Martin (West of Scotland) (Ind)

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

\*Mike Watson (Glasgow Cathcart) (Lab)

\*Sandra White (Glasgow) (SNP)

### COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Norman Banski

Jill Campbell

Mr David Davidson (North East Scotland) (Con)

Mrs Margaret Ewing (Moray) (SNP)

Miss Annabel Goldie (West of Scotland) (Con)

Alex Johnstone (North East Scotland) (Con)

David Mundell (South of Scotland) (Con)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

### CLERK TO THE COMMITTEE

Jim Johnston

### ASSISTANT CLERK

Joanne Clinton

### LOCATION

Committee Room 6



## Scottish Parliament

### Public Petitions Committee

*Wednesday 10 November 2004*

[THE CONVENER *opened the meeting at 10:02*]

### New Petitions

**The Convener (Michael McMahon):** Good morning everyone, and welcome to the Public Petitions Committee's 17<sup>th</sup> meeting this year. As usual, we have a busy agenda. We have received apologies from Rosie Kane and I am advised that Jackie Baillie has a clash with another committee meeting this morning, although she will be here as soon as that meeting is over.

#### **A90 (Laurencekirk/Marykirk Junction) (PE778)**

**The Convener:** Item 1 on our agenda is new petitions, the first of which is PE778. The petitioner, Jill Campbell, calls on Parliament to urge the Executive to upgrade the Laurencekirk/Marykirk junction of the A90. Jill Campbell is here to give a brief statement in support of her petition. She is accompanied by Norman Banski. Welcome to the committee. You have three minutes, after which we will ask questions.

**Jill Campbell:** On behalf of the people of south Mearns and north Angus, I thank the committee for taking the time to consider our petition. The petition began in anger and confusion—anger at yet another life lost, and confusion as to why nothing had been done to make the junction safer. In the past five years, there have been five fatalities, 29 reportable accidents and 16 reported injuries. The reality for us is that five people have died and two unborn babies have also been lost. There have been countless collisions and near misses. People have been shocked and injured, families devastated and a community has been affected by yet more tragedy. A friend of mine who witnessed the latest fatality wrote:

"The collision that occurred in that split second was horrendous and something that will stay with me for ever. The feeling of helplessness is overwhelming."

I urge consideration of immediate action to impose a reduced speed limit until a grade-separated junction can be built, because the near misses are still happening, chaos reigns during peak times and each day on which nothing is done brings us closer to another fatality. We know that it is a case not of if, but when.

**Ms Sandra White (Glasgow) (SNP):** What is the population of Laurencekirk?

**Jill Campbell:** I think that it has a population of just over 2,000 people.

**Norman Banski:** The issue affects more than just the population of Laurencekirk. We have calculated that there are probably about 20,000 people within a 10-mile radius of the junction. Laurencekirk itself is quite small, but the hinterland that feeds the junction is large; it takes in Montrose as well.

**Ms White:** By asking how many people lived in Laurencekirk, I was trying to get a feel for the number of fatalities that the lady mentioned. If I have ever requested a council to upgrade a road, to put in lights or to reduce the amount of traffic, it has been normal practice for the council to ask how many fatalities there have been in the area. I was just trying to gauge how the five recent deaths, as well as the injuries, related to the population of what is a small village. That is why I asked how many folk there are in Laurencekirk. I thank you for that information.

**John Scott (Ayr) (Con):** Given the number of signatures that you have collected, the petition is obviously very significant. What remedial works, if any, have been carried out at the junction and what works are planned in the near future?

**Jill Campbell:** On recent safety measures, anti-skid slipways have been installed, along with two signs that say, "Cross with care", which face both entrances—that on the Marykirk side and that on the Laurencekirk side. Other than that, nothing has been done.

**John Scott:** Our papers mention a grade-separated junction. Are there any plans for such a junction?

**Jill Campbell:** There are no such plans that we are aware of. That is what we are seeking.

**Helen Eadie (Dunfermline East) (Lab):** What other elected representatives have you involved in your campaign?

**Norman Banski:** As well as grass-roots support at community council level, we have support from Aberdeenshire Council and from our local representatives in the Scottish Parliament, three of whom are with us today. We have support from two local members of Parliament at Westminster and from the relevant member of the European Parliament. Our support is cross-party and extends from the grass roots to the highest levels.

**The Convener:** I am trying to get a picture of what the junction is like. I am always concerned about traffic queuing on the outside of dual carriageways to turn right off the dual carriageway. Is that the type of junction that we are talking about, or are we talking about a crossroads?

**Jill Campbell:** It is a staggered crossroads.

**Norman Banski:** It is almost a crossroads. The junction is where the A937 crosses the A90. The stagger is a matter of a few yards rather than tens or hundreds of yards. The slipways tend to be a car's width and the cars tend to block people's view. In just over an hour on the Saturday after the fatal accident that stirred the petition, the police found 63 speeding drivers, four of whom were travelling at more than 100mph.

**The Convener:** Is the area covered by speed cameras?

**Norman Banski:** The nearest speed camera is about 3 or 4 miles south of the junction and there is another about 6 miles north of it.

**The Convener:** Such safety measures might not have any impact on the number of fatalities, because the cars would already be travelling at fairly high speeds.

**Jill Campbell:** That is right. The volume of traffic coming out from the junctions is also a problem. There are more than five haulage companies in the Laurencekirk area, all of which use the junction. I went down to Montrose last Friday and counted 21 cars waiting to use the junction behind a lorry that was waiting to come out. That was during peak time.

**The Convener:** I take it that Laurencekirk and Marykirk are connected, but that a person must cross the A90 to get from one to the other?

**Jill Campbell:** Yes. Marykirk is the first village that a person will come to on the road, which really serves Montrose beyond it. Montrose is the next major town.

**The Convener:** So we are talking about a vital junction that allows people from a more rural area to travel to a more populated centre.

**Jill Campbell:** Yes, but many people from Montrose who work in and travel to Aberdeen now choose to come up the A90 at Laurencekirk instead of using the coast road, because they can get on to the dual carriageway faster.

**Norman Banski:** It is a commuter junction.

**Jill Campbell:** It is.

**The Convener:** In your discussions with the local authority, has the local authority given any indication that it planned for the junction to be used for that purpose? Had any account been taken of the fact that people would—

**Jill Campbell:** I think that we are the only people who have noticed how busy the junction is getting.

**Norman Banski:** I would like again to go back in time a little. The matter was raised with Callum

MacDonald back in 1997, when he was the responsible minister.

**John Scott:** I referred to the grade-separated junctions on the A90 at Forfar. Have they been a success?

**Jill Campbell:** Yes.

**John Scott:** As people who use the junction every day, what would be your solution to the problem?

**Jill Campbell:** I would like there to be the same measures as were put in place at Forfar. There should be an immediate speed reduction, with a view to the introduction of a graded junction. There have been no fatalities at Forfar since the 50mph speed limit came into effect. I realise that a graded junction will take time, but we must do something now.

**John Scott:** Speed cameras could be installed in the short term.

**Jill Campbell:** Yes. We need something now. Days are getting darker with winter coming in, so things are only getting worse.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** Good morning, folks.

There is a similar type of junction in my constituency, and urgent alterations have been carried out to it. I want to understand the situation in Laurencekirk. When traffic is trying to join the main trunk road, what is the arrangement for traffic turning right in the central reservation?

**Norman Banski:** To be honest, the arrangement is quite frightening. It is not uncommon to see four cars lined up alongside one another. I used to travel on the road in the morning, and I have seen four cars turning into the north-bound carriageway at the same time. Three cars doing so is common, and two cars is standard.

**John Farquhar Munro:** So the width of the central reservation takes only one car length.

**Norman Banski:** Yes, but it can accommodate four car widths.

**John Farquhar Munro:** Can the cars stack side by side?

**Jill Campbell:** Yes, and they do.

**John Farquhar Munro:** That is quite dangerous. What about turning left? Is there an acceleration lane for joining the trunk road?

**Norman Banski:** No.

**John Farquhar Munro:** Thank you.

**Helen Eadie:** What has been the council's official response?

**Norman Banski:** I believe that the north-east safety camera partnership is considering short-term measures and I hope that speed cameras will be used to reduce speeds. The number of police patrols and mobile camera patrols has also been increased in order to reduce speeds. Figures came out about the 63 speeders that I mentioned as a result of one such measure.

**Helen Eadie:** Have you have met the council's head of roads and transportation?

**Norman Banski:** Councillors have progressed the matter by way of a committee motion in Aberdeenshire Council, which received unanimous support, I think.

**The Convener:** We are joined by the constituency MSP and two of the area list MSPs, so I give them the opportunity to contribute.

10:15

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I thank you and the committee clerk for accepting the petition when it was presented—that was helpful.

I support the petitioners. In my view, there are a number of dangerous junctions along the length of the A90, which is a constituency and regional issue. The Laurencekirk junction is by far the most dangerous and, as has been outlined, there have been a number of fatalities.

The petitioners had an informal preliminary meeting with the Minister for Transport. That meeting was positive, but it would be extremely helpful for the petition to be referred formally to the minister for action by the Scottish Executive. As Jill Campbell pointed out, the Executive has introduced a number of measures to improve road safety in the area, but in my view and that of the petitioners and everyone else, the measures are not sufficient. The Executive is minded to take action and it would be helpful for us to use the petition as a formal lever with which to get a response from it.

The long-term requirement at Laurencekirk is for a grade-separated junction, but that will take years and, as Jill Campbell and Norman Banski pointed out, we need action now to save lives. That is what the petition is about. Short-term measures could be taken relatively quickly: we need speed cameras and, as was used in Forfar, a temporary speed-limit reduction to 50mph until a grade-separated junction is built. I emphasise that there is all-party support on the matter. A number of questions have been raised by the council and the community council and everybody who has been involved from whatever source has been supportive of the petition. The road is a trunk road, so is clearly the responsibility of the Scottish

Executive and the Minister for Transport. It would therefore be immensely helpful to everyone involved if the committee referred the petition to the Scottish Executive Minister for Transport for action.

**Mr David Davidson (North East Scotland)**

**(Con):** I agree whole-heartedly with what has been said. I will give some technical details. Three years ago, engineers from BEAR Scotland Ltd, which is responsible for maintaining the A90 on behalf of the Executive, assisted me with examining a problem whereby the three junctions at Laurencekirk were causing difficulties. The junction that we are talking about today is the worst, but the other two are also dangerous and present similar problems for those who try to cross the dual carriageway in that there is no safety area in the middle of the carriageway. It is a narrow road on a big bend with no lighting whatever and in poor weather it is difficult to see the signs. I put the matter to Lewis Macdonald with the support of the community council in Laurencekirk, but it was rejected. The BEAR Scotland engineers told me that if the scheme was approved it would take three years to build. That is why we in the area agree that we need to put in place temporary restrictions such as those that have worked and saved lives at Forfar: a reduction in the speed limit and proper signage. Local drivers tell me that the current signage is nothing more than a distraction.

Committee members must realise that the A90 is the main road between Dundee and Aberdeen. It carries a lot of heavy traffic, a lot of local farm traffic and a lot of local haulage traffic. More important, Mearns Academy and the local primary school, which has a learning disability unit, draw in people from both sides of the road, but buses cannot sit in the gap in the middle. All too often one sees, for example, a van pull alongside a car so that the car driver is cajoled into moving with no vision. On top of the other temporary measures, I would like the slots across the road to be narrowed, with clearer road markings, so that only one vehicle can be there at a time. However, that would be very much a temporary exercise. The long-term ideal is a grade-separated junction and the closure of the two junctions further north, so that all traffic in and out of Laurencekirk goes over the top. As Jill Campbell said, one problem is that a lot of traffic is not going into Laurencekirk but is going north or south, taking people to work. It is possible that Laurencekirk station will open up fairly soon, in which case people will be encouraged to cross the dual carriageway to get to the station. Those matters must be handled together, because that development will increase the amount of traffic that crosses the dual carriageway.

Many reports that I have received from the police indicate that they are aware of accidents or

near misses that are not reported because they do not appear in the statistics unless a person is injured. That is a procedural flaw. The police are aware of the situation and support everything that Mike Rumbles and I have talked about.

I would like further action on the petition to be recommended. I am not sure whether procedures allow the petition to go straight to ministers, but I would like that to happen, although I believe that the Local Government and Transport Committee must consider the petition on its way to ministers.

I wish the petition success. It is one of the most important petitions from the area to the Parliament in a long time. It is vital that we put lives first.

**Alex Johnstone (North East Scotland) (Con):** The A937, which runs between Montrose and Laurencekirk, is an important local road. Jill Campbell referred to the economies of north Angus and south Mearns, to which that road is important. Montrose is a local economic centre that has much influence in the Howe of the Mearns. Laurencekirk lies at the centre of the howe, which is a densely populated agricultural area that has many small villages and many bigger farms whose houses and former cottages have been developed and are all occupied. The area has many more people than the size of Laurencekirk village suggests.

We must consider what is happening in the area that is immediately south of the River Esk in the vicinity of Montrose, which has, because of house prices in the north-east, become part of the area in which people buy houses from which to commute to Aberdeen. Consequently, the A937 junction has become the point at which they access the main road north. That is easy enough when they turn left off the road to go home, but when they turn right on to the road, traffic forms queues and builds up in the centre of the road. In addition, speeds on that stretch of the A90 tend to be excessive—it is easy to break the speed limit on that stretch of road. When driving up that road, it can be difficult to avoid someone who pulls out in front. I have experienced that problem.

Another problem of which the committee should be aware and which I have experienced several times—again yesterday as I drove down here in the middle of the afternoon—is that the sun's position at this time of year means that in the afternoon, drivers who are going south on the A90 are often blinded. The police are fully aware of that and I have seen police cars parked on the road to attempt to slow traffic when such conditions prevail.

Efforts are being made, but the junction is dangerous in many ways. Nevertheless, it is so vital to the economies of north Angus and south Mearns that we must do something to protect the

people who rely on it for their lives and their livelihoods.

**The Convener:** What are committee members' suggestions?

**Helen Eadie:** First, we need to ask the Scottish Executive what its views are, given that we have heard the views of the petitioners and their supporting MSPs. BEAR Scotland has been mentioned. We should ask the Executive what BEAR's plans and timescales for action are. That would be a good starting point.

We also need to ask for the local council's views. We have heard them, but it would help to have its official view on the record. The Royal Society for the Prevention of Accidents deals with road safety. I do not know whether it has been subsumed into another organisation, but we could contact it. We could also seek the Scottish Accident Prevention Council's views.

**Ms White:** What Mike Rumbles and David Davidson said and the figures about heavy goods vehicles that use the route suggest that the road is a trunk road, so it is the Executive's rather than the council's responsibility. I seek the clerks' indulgence; is it within the committee's remit to pass the petition to ministers rather than go through the Local Government and Transport Committee?

**The Convener:** It would be always be standard practice for us to do one or other of those things. If we decide that we have enough evidence from the Executive on the subject, we can refer PE778 straight to the appropriate committee. If that is not the case, we would take the Executive's view before referring the petition, together with the Executive response, to the appropriate committee so that it is advised of the Executive position. What we do not do is to send petitions to the Executive and the appropriate committee at the same time.

Helen Eadie suggested that we write to the Executive. I think that that is the appropriate place to start, given that the request to do so came from the petitioner and supporting MSPs, as it indicates that we do not know what the Executive's position is. If we are dissatisfied with the Executive's response, the committee to which the petition would appropriately be referred would be the Local Government and Transport Committee.

**Ms White:** I was just seeking clarification. I know that we cannot send petitions to the Executive and the appropriate committee at the same time. I am worried about the timescale that would be involved in sending PE778 to the Executive—to solicit its thoughts and comments on the matter—and to the Local Government and Transport Committee. My suggestion is that we send PE778 to the Executive with a letter saying



that the evidence that we have heard today suggests that something be done immediately.

**The Convener:** Again, it has become our practice—certainly that is the case since I became convener—to give the Executive six weeks to respond. If we have not received a response within that time, we go back to the Executive and its lack of response becomes part of our consideration of the petition. We have experienced delayed responses from the Executive in the past, but we do not allow petitions to be kicked into the long grass; we pursue the lack of response and do not let timescales slip.

**Ms White:** Time is of the essence, as winter is coming in. If the committee agrees that we should write to the Executive, we must ensure that it replies timeously. Helen Eadie also made a suggestion about writing to Aberdeenshire Council. Surely the council could get BEAR Scotland to put in some temporary measures to address the number of people who have been killed on this small stretch of road.

**The Convener:** It would be appropriate to write to the local authority to get its view. Having heard the evidence on PE778, we should collect as much information as we can from the Executive. As Helen Eadie suggested, we should also write to the local authority and other appropriate organisations, to which list I would add the Royal Society for the Prevention of Accidents. We need to seek its views on the subject.

**John Scott:** Although we are interested in all the views, the one that interests me most is the view of the Minister for Transport—he has the decision-making capability and we should write to him.

**Helen Eadie:** The suggestion that I omitted to make was that we should contact the European road assessment programme, which is a new programme of which I was unaware until I read the paper. Given that we are talking about one of Scotland's major trunk roads, it would be good to get the programme's view on the matter.

**The Convener:** A number of organisations have been suggested, but—

**John Farquhar Munro:** The point of writing to the Executive is to get a response from the Minister for Transport.

**The Convener:** Absolutely.

Are members agreed that we write to the minister and the organisations that have been mentioned?

**Members indicated agreement.**

**The Convener:** Once we get the responses, the clerks and I will update members and the petitioner. We will consider PE778 further after receipt of those responses.

**Jill Campbell:** Thank you.

### **National Football Team (Management Regime) (PE780)**

**The Convener:** The previous petition was the first and last one this morning for which we had supporters at the committee. We invited two other petitioners to come today. Although they were unable to accept the invitation, they want their petitions to go ahead. Petition PE780 was submitted by Bruce Tennant, who calls on the Scottish Parliament to debate the need for the immediate restructuring of the Scottish football team's management regime.

Given the large amount of taxpayers' money that the Scottish Executive allocates to the Scottish Football Association and the potential benefits that result to the country from the success of the national football team, the petitioner believes that it is appropriate that the Parliament should debate the issue. Before being formally submitted, PE780 was hosted on the e-petitioner section of the Parliament website, where it gathered a total of 18 signatures during the period 31 August to 1 October 2004.

Members might wish to note that the Scottish Executive has no formal locus as regards the restructuring or removal of the Scottish football team's management regime. That would require action by the SFA or its affiliated members. The Parliament debated Scottish football on 11 February 2004, and Richard Baker MSP, as reporter for the Enterprise and Culture Committee, is conducting an investigation into the current situation of Scottish football. Richard Baker has undertaken an initial consultation and although the evidence-gathering period has closed, he has told the Scottish Parliament information centre that he would be happy to consider the evidence from the petitioner as part of the reporter investigation process. Do members have any views?

10:30

**Helen Eadie:** I have read the papers and it would be helpful if we referred the petition formally to Richard Baker, given that he is undertaking that investigation on behalf of the Enterprise and Culture Committee. That would deal with the petitioner's concerns.

**John Farquhar Munro:** Events in the past few days have overtaken the petition. I agree that the management of the team should be restructured. That was evident this week when Denis Law suggested that any new appointment to manage the team should have a Scottish background. It seems to be the fashion nowadays that every team in the country wants a foreign manager.

**The Convener:** I think that Berti Vogts's job was impossible, which is the issue that underlies the petition. The petition is not about who the manager of the team should be, but about how Scottish football is run, which is what Richard Baker is investigating. We have previously referred to Richard Baker petitions from supporters of Falkirk Football Club and Inverness Caledonian Thistle Football Club, which implied that a problem exists with the structure of Scottish football. Granted, the petition specifically asks the Scottish Parliament to do something about sacking Berti Vogts and we could not have any involvement in that. However, nobody would find it easy to manage the Scottish national team at present given the difficulties with the structure of Scottish football. Whoever takes over the job, be they Scottish or otherwise, will find it difficult, because Scottish football has been declining for such a long time and the tools they will have to work with are meagre.

**John Farquhar Munro:** That is true.

**The Convener:** The suggestion that we add the petition to Richard Baker's work load is probably the best that we can do with it.

**Mike Watson (Glasgow Cathcart) (Lab):** I declare that I am a director of Dundee United Football Club and a member of the Enterprise and Culture Committee. I am happy for the petition to be referred to Richard Baker, although he has finished taking evidence. As you say, convener, the petition is not clear and it contains conflicting views. The petition mentions the

"restructuring of the Scottish Football Team's management regime."

But it also calls upon

"the SFA to appoint a new manager as a matter of urgency."

Those are two different things and the second one is happening anyway.

If we are to refer the petition to Richard Baker, it might be better if Mr Tennant were to write to him to say what he has in mind. A call for restructuring does not really suggest anything. Does it mean having two managers instead of one? Does it mean restructuring the coaching regime? Does it perhaps mean, as John Farquhar Munro mentioned, having a Scot in the position? I think that that suggestion is far too restrictive—we should get the best person for the job, wherever he comes from. We should ask Mr Tennant to write to Richard Baker to clarify what he means. A two-line petition does not really take us very far forward.

**The Convener:** We have asked the petitioner to clarify specifically what he intended. He mentioned the regime within Scottish football, which creates the difficulty of exactly what the changes would

entail. If we ask Richard Baker to consider the petition, it will be for him to engage in a discussion with Mr Tennant. Richard Baker has said that he is prepared to do that as part of his overall investigation. Although the consultation period is closed, he will take account of the petition and speak to the petitioner to get to the bottom of what was meant.

**Mike Watson:** Fine—if that has been agreed with Richard Baker, I am more than happy to go along with it.

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

**Members indicated agreement.**

**John Scott:** I wonder whether we should write to the Scottish Football Association to ask whether it has any views on the petition.

**The Convener:** Yes, why not?

**Mike Watson:** Richard Baker has had meetings with the SFA.

**The Convener:** Yes, he will have had those discussions. We will refer the petition to Richard Baker and allow him to get on with the work that he has undertaken.

### Treason Law (PE782)

**The Convener:** Our next petition is PE782, by Mark Colquhoun. It calls on the Parliament to take a view on modernising the law on treason in the United Kingdom; to consider that the recommendations of the Law Commission for England and Wales in 1977, on the reform of the law in this area, have never been implemented; and to make representations to the United Kingdom Parliament as appropriate. Before being formally lodged, the petition was posted on the e-petitioner site where it gathered 11 signatures during the period 31 August to 30 September 2004.

Treason is a reserved matter under schedule 5, part I, paragraph 10 of the Scotland Act 1998. The old Scots law of treason was abolished by the treason act of 1708, which is entirely and wholly English law, resting on the English Treason Act 1351, together with a few later statutes. The petitioner argues that

"judges as recently as 1917 had extreme difficulty trying to interpret the words from that language and time".

In 1977, the Law Commission for England and Wales issued a consultation paper, "Codification of the Criminal Law: Treason, Sedition and Allied Offences". Although the paper contained a number of recommendations, including those highlighted by the petitioner, the law of treason in the United Kingdom has remained unaltered.

High treason ceased to be a capital crime in 1998 and, on 27 January 1999, the Home

Secretary, Jack Straw MP, formally signed the 6<sup>th</sup> protocol of the European convention on human rights in Strasbourg, on behalf of the UK Government, formally abolishing the death penalty in the United Kingdom.

Given all that information, what do members think that we should do with the petition?

**Helen Eadie:** I am puzzled as to why we are considering this petition. It deals with a reserved matter and, in the past, the committee has taken the view that such matters should be referred to Westminster. What was your thinking, convener?

**The Convener:** The petition asks for the Scottish Parliament to take a view and we cannot do that unless we consider the petition.

**Helen Eadie:** I feel that, because it deals with a reserved matter, we should refer the petition to Westminster. Once we start to go down the road of considering reserved matters, we will open the floodgates to many other petitions.

**The Convener:** We are always careful not to do that, but the Scotland Act 1998 allows the Parliament to take views on matters. The petitioner is aware of that and has petitioned the Parliament to take a view.

**Ms White:** We have considered petitions on, for example, asylum seekers. Whether or not a matter is reserved, we have a right to pass comment.

Convener, you spoke about "wholly English law", suggesting that we could not have an act of treason in Scottish law. You did not say "United Kingdom law" but "wholly English law". Will you clarify that point? Are you saying that Scotland does not have an act of treason and that, therefore, Scotland is not affected?

**The Convener:** No, it affects Scotland. The Scots law was subsumed into English law. The laws governing Scotland are UK laws. Although this law was written as an English law, it covers Scotland. That is what makes this a reserved issue.

**Ms White:** Did that come into force after 1708?

**The Convener:** Yes, and that has never been changed.

**Ms White:** Obviously, the matter is important for Mr Colquhoun and the others who signed the petition. Perhaps we should write to the Law Commission for England and Wales. Our paper refers to recommendations that were made by the commission in 1977. In the interests of transparency and fairness, the committee should write to the commission for an update.

**The Convener:** It is certainly worth asking questions. Are members happy that we should do that?

**Members indicated agreement.**

## National Bird (PE783)

**The Convener:** Our next petition is PE783, by James Reynolds on behalf of *The Scotsman*, which calls on the Parliament to support the establishment of the golden eagle as the national bird of Scotland.

The petition was submitted following a national campaign by *The Scotsman* newspaper, in which readers voted for a national bird of Scotland from a shortlist of 12 native Scottish birds drawn up by RSPB Scotland, which this year is celebrating its centenary. Each of the 12 birds was championed by a television, film or radio personality, sports star or politician. Annabel Goldie MSP is with us, and she championed the golden eagle, which was the outright winner with 406 votes from a total of 1,666.

Newspaper polls resulted in the robin being unofficially adopted as the national bird of Britain more than 40 years ago, and the red kite being regarded unofficially as Wales's national bird. Many countries, including the USA, New Zealand, France and Norway, have national birds.

I welcome Annabel Goldie to the committee. Do you wish to comment?

**Miss Annabel Goldie (West of Scotland) (Con):** Thank you, convener, and to avoid confusion, it is the golden eagle that we want as the national bird, not me. I say that in case there is any misunderstanding.

It is appropriate that I note my interest as a member of the RSPB.

Thank you for allowing me the opportunity to speak to the Public Petitions Committee about the petition. I suspect that I was not alone in finding out with some surprise that Scotland does not have a national bird. I vaguely assumed that we had one, but did not know much about it. I was intrigued when the situation was brought to my attention. I felt that there was merit in Scotland having a national bird. It is a sensible proposition. The idea was that, whatever bird seemed to find favour with the public, it might not only be adopted as a national bird, but become a national emblem of Scotland. I have no difficulty with either of those propositions.

It was my happy task to promote the golden eagle, which I did with great pleasure. If any bird was ranking for the position, the golden eagle was winging it, in every sense of the phrase, because it is inseparable from the image of Scotland. In any event, I imagine that many people think that the golden eagle is our unofficial emblem. I simply wanted to come before the committee this morning to say that the idea is a good one and, in so far as the golden eagle is concerned, it has my personal backing, because it has become synonymous with

all that we regard to be the best virtues of Scotland.

**The Convener:** Congratulations on being the successful sponsor. If some other MSPs had sponsored birds we might have ended up with a bald coot or a turkey, not to say a bustard.

**Miss Goldie:** I think that the bird pled its own case.

**Mike Watson:** That has got the official report staff on their toes.

**The Convener:** It is a serious enough issue to merit coming forward as a petition, so I am interested to hear what committee members think we should do.

**John Scott:** It is nice of Annabel Goldie to glide in today from her committee. The petition's concept is interesting. If we are to go down the route of having a national bird, perhaps we ought to conduct more comprehensive research than that which was done by only one newspaper. It would be sensible to widen the research to include, for example, *The Herald* in the west of Scotland, which would give the result a more national dimension than the research from just an Edinburgh newspaper.

The question that is raised, of course, is whether we are going to have a national mammal. Why have a national bird and not a national mammal? A lot of questions must be asked before we proceed. The idea is nice, but we should look into it a lot more carefully.

10:45

**Helen Eadie:** I agree with John Scott. The thought that comes to my mind is whether we necessarily want to go for a bird that attacks. Although it is a wonderful, strong bird, I would rather that we thought about having a bird of peace such as a dove. Scotland wants to be on the global map and known as a country that believes in peace and wants to go down that route. That view might be shared by many others, but how do we test it? John Scott makes a good point about wider consultation. Having been the loser in the proportional representation debate, it crossed my mind that the survey was conducted using proportional representation methods.

It would not be appropriate to write only to organisations such as Scottish Natural Heritage, the Scottish Wildlife Trust or the National Trust for Scotland. A much wider consultation is needed. I am told that the RSPB is bigger than all the political parties put together, so we have to be mindful of that. Its views would certainly have to be taken into account.

John Scott is right that we have to try to conduct a much bigger consultation exercise than speaking

just to the organisations that are recommended in the clerks' papers.

**The Convener:** Before coming to Jackie Baillie, it might be worth my pointing out that the RSPB drew up the shortlist.

**Jackie Baillie (Dumbarton) (Lab):** I have no doubt that it was a very interesting competition and that time was taken to pair MSPs and others with their bird of choice. I hardly consider the sample to be scientific if only 1,666 people respond, no matter how earnest those responses, and I do not think that we should rush to do anything on the back of that.

In her article, Annabel Goldie said that the golden eagle is "synonymous with Scotland" and that it is

"an architect and builder of incomparable skill".

Given our new Scottish Parliament, I wonder whether Annabel Goldie will amplify those comments.

**Miss Goldie:** With pleasure, convener. It was precisely that awareness and sentiment that inspired me to say that I felt that the golden eagle was an exemplary model of how to set about construction projects. It manages to construct an impressive eyrie that endures apparently without limit of time and does not cost anyone a penny. I thought that that was a fine example to put before Scotland.

I come to the earlier point that the convener has clarified. The RSPB is supporting the petition and it has a significant voice on the issue.

As to the other virtues of the golden eagle, I listened with interest to Helen Eadie's point. There were some admirably courageous proponents of other birds. Mr Rab McNeil deserves a medal for promoting the crossbill, because that was not an easy case to plead.

If the Parliament was minded to consider any bird as a national emblem for Scotland, it has to be something that, at first sight, is synonymous with and is already an icon of Scotland. However meritorious the dove might be—

**Helen Eadie:** But the eagle reminds people of Bush and all the worst aspects of aggression. The eagle is one of the emblems of America.

**Miss Goldie:** It does not. If I may say so, that is an unfortunate ornithological lapse. The committee member is confusing the bald-headed eagle with the golden eagle. As a Scot, my blood rises and courses through my veins to think that there could be any possible confusion. The golden eagle is, of course, an indigenous Scot and a dramatic, heroic and fine example of all the best qualities of Scotland. Mrs Eadie took some exception to the fact that the bird is a raptor. It is a raptor, but

raptors are found in many forms in society—they are not necessarily restricted to the world of ornithology. It is important that if the committee is minded to find merit in the petition, albeit it might have some views about how it might proceed, we should not lose sight of the fact that whatever bird is chosen, it has to be one that, not just in the national mind of Scotland but on the wider front, is unequivocally identified with Scotland.

**The Convener:** Do members have ideas of who we should contact? The idea that we should take wider soundings on the petition is important, because, although it has generated a discussion, we may not be able to make a definitive decision. We might have to ask other organisations beyond the RSPB, although I take into account the scale of the RSPB. If a national bird is being chosen to promote Scotland, perhaps we should contact the organisations that do that job to find out whether they have a view on whether the addition of a national bird for Scotland would help them to promote the country. It would be worth taking views from organisations such as VisitScotland that would use the bird as an emblem.

**Helen Eadie:** We should also contact schools, churches and wider society, such as the Scottish Civic Forum. This would be an ideal issue for the Scottish Civic Forum to engage with us on. We have treated the petition with a great deal of humour this morning, which is good and welcome because it makes for a bit of light relief in the committee for a change, but it is important. I urge you to accept—which you obviously are doing, convener—the point that various members have made, that we should consult as widely as possibly. How can we go wider than just the Scottish Civic Forum and others, and who would the other appropriate people be?

**Jackie Baillie:** I do not want to be awkward, convener, but I take a slightly different view. Before we rush off to debate the merits of various birds in Scotland, it might be useful to find out what the process for adopting a national bird is. I would have thought that, in the first instance, we should simply write to the Executive for that piece of information and to find out whether it is minded to adopt a national bird. I am conscious that some of the articles in *The Scotsman* referred to the supportive comments of the then Deputy Minister for Environment and Rural Development, so it would be useful to find out what the Executive's view is before we consider a wider consultation that might invite people to start nominating half a dozen different birds. The committee is not in a position to decide which bird it should be, however admirable Annabel Goldie might be.

**John Farquhar Munro:** The options for action include a wide range of people for the committee to consult. The Scottish Executive is included, as

are Scottish Natural Heritage, the Scottish Wildlife Trust, the National Trust for Scotland and the Heraldry Society of Scotland. I recommend that we adopt the options that are recommended in the paper.

**The Convener:** And that we not take a view as to which bird it should be.

**John Farquhar Munro:** No, not at this stage.

**Helen Eadie:** If we do that, I hope that you will take account of the request that we adopt a much wider approach to civic Scotland. The Scottish Civic Forum should be included in the list of consultees if we are following the recommendations in the paper. The point that Jackie Baillie made is right, and I agree with her suggestion. I hope that you will approach the churches too and ensure that a full transcript of our discussion goes to all the organisations mentioned.

**The Convener:** I get the feeling that there are two views. Are you saying that we should go to the Executive, get a lead from it about its attitude to the proposal and then contact wider organisations after the Executive gets back to us?

**Helen Eadie:** That is fine.

**John Scott:** I endorse that proposal. The concept of a national bird is nice, but we should investigate it and hasten slowly rather than rush into it. We have managed to exist without one for many hundreds of years thus far, so we do not need to rush it. One has to ask whether it is an intelligent use of parliamentary time to consult the whole of Scotland. There might be a sensible reason for consulting a little bit more widely, but let us not go overboard.

**The Convener:** Are members happy that we write to the Executive first and await a response from it?

**Members indicated agreement.**

**The Convener:** I thank Annabel Goldie for helping us with our discussions.

### **Sir William Wallace (PE781)**

**The Convener:** Petition PE781 was lodged by John Stewart Heselden and calls on the Scottish Parliament to commemorate the 700<sup>th</sup> anniversary of Sir William Wallace's death on 23 August 2005; to mark the date an annual event in the Scottish calendar thereafter; to acknowledge on public record that William Wallace was not guilty of the charge of treason laid before him; and to make representations to the United Kingdom Parliament for a declaration of his innocence and that he be exonerated of that charge.

In response to a parliamentary question, Frank McAveety MSP stated:

"The 700th Anniversary of William Wallace's death will be a significant attraction for visitors to Stirling in particular and Scotland as a whole. We are therefore working with Stirling Council, VisitScotland and Historic Scotland to develop an appropriate programme of educational activities and events for August 2005."—[*Official Report, Written Answers*, 14 September 2004; S2W-10150.]

Phil Gallie MSP lodged a motion about Sir William Wallace in May 2002, which called on the Parliament to recommend that

"a posthumous pardon for the charge of treason laid against him be granted."

To achieve the outcome that the petitioner seeks, Scottish ministers would need to make representations to the United Kingdom Government and in particular to the Home Secretary through more informal mechanisms. Do members have a view on the petition?

**Ms White:** I declare an interest. I am a member of the William Wallace Society and I was the society's press officer for many years.

The petitioner makes a good point. On numerous occasions people have approached various councils, particularly Renfrewshire Council, because Elderslie is in that council's area, to seek recognition for and commemoration of William Wallace. It would be right at least to mark the anniversary of his death. Perhaps we should write to the Minister for Tourism, Culture and Sport—the minister is no longer Frank McAveety, but Rhona Brankin—to ascertain what the Executive is doing to mark the 700<sup>th</sup> anniversary of William Wallace's death.

**The Convener:** The new Minister for Tourism, Culture and Sport is Patricia Ferguson.

**Ms White:** Sorry, you are right. Rhona Brankin is the new Deputy Minister for Health and Community Care. When people move about so much it is hard to remember.

The committee's paper indicates that although a pardon can be sought, it will not necessarily be granted. The paper refers to

"an absolute or free pardon, which sets aside the sentence but not the conviction."

The petitioner's point is that William Wallace should never have been convicted of treason, because he lived long before 1707. The Scottish Executive should write to the Westminster Parliament, the royal family—or whoever it might be appropriate to write to—to seek an apology for what happened. I do not see why William Wallace should receive a pardon; he committed no crime. How can someone be exonerated for committing treason when his country was a separate entity at the time? We should seek assurances from the minister about what the Executive is doing about the 700<sup>th</sup> anniversary and we should ask the Executive to contact the Westminster Parliament

and the royal family and ask for an apology for the appalling treatment of William Wallace all those years ago.

**The Convener:** I find that argument a bit esoteric. If William Wallace did not commit treason by challenging the laws of the time, why is he a hero?

**Ms White:** How could he commit treason? Scotland was an independent country at the time and William Wallace was fighting an oppressor.

**The Convener:** I take the point. We could get into an argument about the nature of William Wallace's crime, but how can we sit here many hundreds of years after the event and exonerate someone for doing something that they obviously felt that they had to do?

**Ms White:** The petitioner is not asking the committee to exonerate William Wallace. He is asking us to find a vehicle for securing a pardon. My point is that there does not need to be a pardon because as far as I am concerned no crime was committed. The petitioner asks for a pardon; I think that we should ask for an apology for the disgraceful way in which William Wallace was treated. The man was hung, drawn and quartered all those years ago.

**The Convener:** We must take account of the petition, which asks the Parliament to take specific action. We must consider whether we can take such action.

**Jackie Baillie:** I do not for a minute diminish the sense of injustice that people clearly still feel, despite the fact that 700 years have passed. However, to echo the convener's point, the petition does not ask for an apology from anyone; it asks specifically for a pardon. Equally, the advice that we have been given is that although a pardon would set aside the sentence, it would not set aside the conviction, so we are at cross-purposes about what people want.

I support whole-heartedly the part of the petition that calls for a programme of events to mark the 700<sup>th</sup> anniversary of William Wallace's death. It is appropriate that we write to the Executive and try to elicit more detail about the range of events planned, but I am not prepared to go beyond that.

11:00

**Helen Eadie:** I agree with Jackie Baillie. In order to get more information, it might be helpful if we could pursue the suggestion in our papers that we get an academic perspective on the matter from Professor Edward Cowan and a legal perspective from the Crown Office.

**The Convener:** That might help us with our deliberations.

**John Scott:** I come to this from a different perspective to Sandra White's in that I am a unionist. It could strengthen the United Kingdom if Wallace were granted a pardon on the 700<sup>th</sup> anniversary of his death, in the spirit of bringing the countries of the UK together, rather than the issue continuing to divide them after all these years.

**The Convener:** The petition is asking for William Wallace to be exonerated. I do not know whether that equates to a pardon.

**Ms White:** That is the point I was making. The petitioner does not ask for a pardon for William Wallace; he asks for

"a declaration of his innocence and that he be exonerated of this charge."

The briefing note explains the legal aspect of what a pardon means under English law. It says that Wallace cannot be pardoned because the conviction would still be there. It also says that it could be argued that the United Kingdom Parliament could deal with the issue on the basis that it has vested in it the sovereignty of the pre-1707 Scottish Parliament. We could still contact the UK Government. John Scott makes a valid point. The reason I raised the matter is that I am a proud Scot and I want an independent Scotland, but I can see exactly where John Scott is coming from too. I do not want to continue arguing; I just want people to be treated equally. Perhaps a declaration of William Wallace's innocence would go some way to changing aspects of the relationship between Scotland and England.

**The Convener:** What do we do? Do we write to the people whom Helen Eadie suggested and see whether we can get more clarity on what we can do in respect of the petition?

**Helen Eadie:** I omitted to mention the Clan Wallace Society. It might be appropriate to get an indication of its views.

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

**Ms White:** We can all agree to write to the Minister for Tourism, Culture and Sport—I have decided who the minister is now—to ask what the Executive is doing. I do not see why we should write to the Clan Wallace Society. I am familiar with the society and I am sure that it would support any moves that we make on pushing this matter forward. The first part of the suggestion is fine, but the Executive should write to the UK Parliament to get a declaration from it of the innocence of William Wallace and his exoneration of the charge. I have a slightly different view from the rest of the committee.

**The Convener:** Are you asking us to find out whether the Executive is prepared to go to the UK Government with that proposal?

**Ms White:** Yes.

**The Convener:** We can find that out. There are two parts to the petition. One is about marking the anniversary of Wallace's death and the other is to ask what the Executive intends to do about seeking exoneration. We should put those two specific points to the Executive and await its response before we make further decisions. On Helen Eadie's suggestion, I wonder whether it would help us to know what other organisations, such as the Clan Wallace Society, think about the petitioner's request.

**Ms White:** I am quite prepared to take that on board.

**John Scott:** It makes sense to gather information by asking as many people as we can think of who might have a relevant interest. Once we have heard their views, we can then decide how we want to take the petition forward—if we want to take it forward.

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

**Members indicated agreement.**

## Current Petitions

### A96 Improvements (Elgin Bypass) (PE558)

11:05

**The Convener:** Agenda item 2 is current petitions. Petition PE558, by Pauline Taylor, calls on the Scottish Parliament to urge the Scottish Executive to include a bypass for Elgin in the programme for improvement to the A96 as a matter of urgency.

At its meeting on 1 October 2003, the committee noted that the minister, during a members' business debate on the matter, did not rule out a bypass as a long-term solution to the volume of traffic in the town. The committee therefore agreed to ask the Executive where such a bypass falls in the strategic roads review. We have received a further update from the Executive, which states:

"In relation to the future strategic review of transport projects, which we are committed to begin work on before 2007, I can assure you that we will take account of the desire of Moray Council, and the local community, to see the Elgin Bypass included."

We are joined by Margaret Ewing, who has an interest in the matter. I invite her to advise us and give some information.

**Mrs Margaret Ewing (Moray) (SNP):** I must say that I have enjoyed being here for the past wee while. It has been interesting.

The fact that a bypass has not been ruled out and that the Executive will "take account" of the desire for one does not seem a positive response. After all, in the strategic roads review in 2003 Nicol Stephen made it clear that the Executive's aim is

"an accessible Scotland, with a safe, reliable and sustainable transport system."

The case for the Elgin bypass is subscribed to by all 26 councillors in Moray, along with commercial and residential interests. It is important for us to have more than just weasel words—I hesitate to use that term, but that is what they sound like to me, because to "take account" of something is not to make a positive decision. I ask the committee to ensure that we get a positive response that says that the bypass will be included in future strategies.

**The Convener:** Thank you. Do members have any comments on the information that we have received?

**Ms White:** The petition has been open for a long time, as we can see from the amount of times it has been considered; it was lodged in 2002 and it is now 2004. I am not an MSP for the area so I do not know that much about it, but I take on board what Margaret Ewing said about the fact that the

bypass is not included in the roads programme. Can we write to the Minister for Transport and ask him to say whether the bypass will be included in the strategic roads review, given that the current response says just that it might be?

**John Scott:** I dare say that Margaret Ewing is aware that a transport study has been carried out. Apparently it found that a bypass would not provide any significant benefit to through traffic for the people of Elgin because local traffic is the main cause of the problem. Perhaps she might be able to shed some light on the findings of that survey, but it does rather detract from the strength of the case. She might wish to contradict that, perhaps not unreasonably; it would be helpful to hear her views on it.

**Mrs Ewing:** A considerable amount of research has been undertaken by various organisations in the area. Our estimate is that there would be a 25 per cent reduction in the amount of major traffic that goes through Elgin. Anyone who has an office in Elgin, such as me, knows that one diverts through all sorts of cul-de-sacs and strange lanes in order to avoid the heavy traffic. Because of the nature of the trunk road between Inverness and Aberdeen, which covers an area that represents a significant part of Scotland's economy, we have a lot of heavy transport. Without the addition of better rail services such as the Orton loop we will continue to face problems. A 25 per cent reduction in the amount of through traffic would be worth while not only in terms of the economy but environmentally. We talk about reducing the environmental impact on the area—

**John Scott:** Has the proposed bypass been subject to the Scottish transport appraisal guidance—or STAG—procedure?

**Mrs Ewing:** Yes. The Babbie Group Ltd undertook an extensive appraisal, which I think was submitted to the Public Petitions Committee and the Executive along with other documents. The evidence is there and it would be wrong for us to turn our back on it, particularly given that it shows that the Elgin bypass is a priority improvement to the main trunk road between the capital of the Highlands and the capital of the north-east of Scotland.

We also need to bear it in mind that the Fochabers bypass has been an issue in the Moray area for more than 30 years. People are concerned that the Executive's overall strategy ignores the whole of the A96. I would welcome an assurance from the Executive that the Elgin bypass will be included in any future road strategy—indeed, all and sundry would welcome a clear forward commitment on the issue. I am not making a party-political point; support for the petition is cross party and cross organisation.



**Jackie Baillie:** It is true to say that every MSP could identify a piece of road that causes problems in their part of Scotland. In some cases, however, independent studies have been done, and I want to return to the independent study that was commissioned not by the Executive but by Moray Council. My understanding is exactly the same as John Scott's understanding, which is that the study found that a bypass was not the answer to the congestion problems. The study made a number of recommendations for improvements to the existing road network, which were felt would be better at reducing congestion. The council has said that, instead of pursuing a bypass option in the short term, it will pursue the recommendations for road improvements, and that it is in dialogue with the Executive. Is that not sufficient to deal with, in the intervening period, the congestion problems that we all want to deal with?

**Mrs Ewing:** Perhaps I should have distributed a map to members of the committee. The most recent proposal was for traffic to be diverted via Wittet Drive and Wards Road on to the trunk road. The proposal was rejected on planning grounds because the demolition of houses was involved. Members can imagine that there was a strong reaction to the idea.

Moray Council says that its long-term aim is to have a bypass. Although a little tinkering around the edges might resolve some of the problems, the council continues to support the concept of a bypass. Jackie Baillie and John Scott wrongly interpreted what the council said. It has not reneged on the long-term aim of the people in the area, which is that the Elgin bypass should be included in the Executive's strategy.

**Jackie Baillie:** I do not want to suggest that Moray Council has reneged on that long-term objective. However, we understand that it has taken the study, looked at it and, in the short term, will follow through on some of the study's recommendations for improvements to the existing road network. In that way, the council hopes to resolve at least part of the problem.

**John Scott:** Perhaps Margaret Ewing has not seen the Executive papers. There is no reason why she should have done so.

**Mrs Ewing:** No, I have not seen them.

**John Scott:** With the committee's agreement, I think that we should do Margaret Ewing the courtesy of making those papers available to her. That would enable her to take the debate further. Would that be helpful?

**Mrs Ewing:** What I do not want to see is the Public Petitions Committee dropping the objective of getting the bypass. Members of the committee have received information from the *Northern Scot and Moray & Nairn Express* on the action that is

required, some of which was interesting in terms of pointing out the realities involved. It would be wrong for the committee to say at this stage, "Well, the Executive has given its response and the council has said that it doing things. That is fine; we can leave it alone." I do not want PE558 to be left alone; I want it to be continued. I recommend that, in addition to allowing us to see the papers that have been submitted to the Public Petitions Committee—and probably to the Local Government and Transport Committee—further discussions take place.

11:15

**Ms White:** In its response, the Scottish Executive says:

"we will take account of the desire of Moray Council, and the local community, to see Elgin Bypass included."

Quite correctly, Jackie Baillie and John Scott have picked up on the study that was done. In its response, Moray Council

"makes clear that a bypass will still be pursued as a long term objective."

That suggests that the council has always wanted a bypass. Because the Executive has decided not to include it in the strategic roads review, the council is prepared to take action at the moment to make the road network safe. However, in the long term it is looking for the bypass to be built. That is why it is recommended that we write to the Executive, or the Minister for Transport, to ask whether the bypass will be included in the strategic transport projects review of 2007. That would give the people of Moray and Moray Council more information than the statement that their views will be taken on board. They still do not know whether the project will be included in the review.

**The Convener:** We have papers from the Scottish Executive that state that the project will be included in its considerations. John Scott has suggested that we provide Margaret Ewing with the papers that give us that information, as it is obvious that she has not been privy to it. I suspect that the petitioner has not been made aware of it either. Perhaps we should keep the petition open and invite a response from both Margaret Ewing and the petitioner to the information that we have received.

**Mrs Ewing:** That is very satisfactory.

**The Convener:** We can keep the petition open until the petitioner and Margaret Ewing have had a chance to examine the information and to respond to us.

**Mrs Ewing:** We will certainly respond to the committee and to the Minister for Transport.

### Complementary Medicine (PE571)

**The Convener:** The next petition for consideration is PE571, from Ethne Brown, which calls on the Parliament to introduce legislation to require health boards in Scotland to integrate and implement in the national health service the recommendations of the 1996 report "Complementary Medicine and the National Health Service" by the National Medical Advisory Committee.

At its meeting on 29 October 2003, the committee agreed to defer further consideration of the petition, pending the publication of the Executive's response to recently completed research projects and the conclusion of on-going studies on the topic. The committee has received a response and a further update from the Executive, which states:

"Reports, once approved, are published for the information of the NHS in Scotland"

on the website of the chief scientist office. It continues:

"The Executive does not make or publish any response to such research reports."

In a previous response, the Executive stated that NHS boards are given a unified budget and that it is for boards to decide how best to deploy those resources in order to meet the health care needs of local populations. It also stated that it does not consider it appropriate to introduce legislation to remove NHS board discretion on the provision of complementary alternative medicine. I invite comments from members.

**Helen Eadie:** Might it be appropriate to send the Executive's responses to the petitioner and to seek her views, as we did with the previous petition?

**Jackie Baillie:** As members can see from the papers, a constituent has contacted me on this issue. I understand the Executive's position and that it does not want to deal with the matter through primary legislation, but I do not think that its response outlined how it would encourage the use of complementary medicine in a mainstream way in the NHS. It would be helpful in the context of the petition if we could get an assurance from the Executive that it will do so.

**John Scott:** The Executive is sponsoring several research projects on the value of complementary medicine. It is absolutely right for the Executive to say that it is for health boards to decide whether to promote complementary alternative medicine within their areas of responsibility. In fairness, it is up to those who wish to promote CAM to do so. No one is trying to stop them, but it is for each health board to decide whether it wishes to pursue CAM.

**Jackie Baillie:** I am in no doubt about that. However, it would be helpful if the Executive were minded to encourage complementary medicine, subject to the research indicating that there are benefits to be gained.

**John Scott:** It should not be up to me to respond for the Executive, but I read in our papers that the Executive has said that it is willing to consider further projects that have the potential for benefit.

**Mike Watson:** The 1996 report suggested that benefits were felt, and it included health board guidelines. I dislike the idea that any treatment would be available on the basis of where people live. Some areas of medicine are more important than complementary medicine, but it would help to remind health boards of complementary medicine's benefits. Perhaps that should come from the Executive. We could ask it to write to health boards to make the point that the subject has been revisited because nothing much has happened since the 1996 report was accepted.

**Helen Eadie:** I agree totally with the views of Jackie Baillie and Mike Watson. We need to have a strong emphasis on clear guidance from the Scottish Executive that local health boards should take the issue much more seriously. I support strongly Jackie Baillie's views on that.

**The Convener:** Do we accept the recommendation to write to the Executive?

**Members indicated agreement.**

### Further Education (Governance and Management) (PE583)

**The Convener:** PE583, which is by Joe Eyre on behalf of Further Education Fightback, calls on the Parliament to inquire into the governance and management of Scotland's further education colleges and to consider reforming the legislative framework that governs further education.

At its meeting on 23 June 2004, the committee considered a response from the Executive and agreed to seek the views of the further education lecturers association, the Association of Scottish Colleges, the National Union of Students and the petitioner. Those responses have now been received.

Members will be aware that the Executive launched a review of how Scottish colleges are governed in May 2002 following a recommendation from the Audit Committee in its report on alleged financial mismanagement and irregularities at Moray College. The Executive's review ended in October 2002 and, in March 2003, ministers announced a package of measures that was aimed at modernising standards of governance and accountability in the college sector.

**Helen Eadie:** I have taken the trouble to speak to local college principals about the issue, because they lobbied me. The picture from them was clear: although they recognise that some colleges have issues, they feel that if an approach is taken that might change the structure throughout Scotland, that might be detrimental to the good progress that has been made.

Our local colleges in Fife—Lauder College, Fife College of Further and Higher Education and Glenrothes College—have thrived in recent years. Governance in those colleges is among the best in Scotland. The views from those colleges' principals are that we should by all means deal with the problems that are around, which are also a function of the Scottish Higher Education Funding Council, and that the Executive's role is to monitor what is happening in colleges and to deal with the problems in SHEFC to ensure that it copes with issues, but that wholesale fundamental alteration of college structures could simply demotivate and destabilise the college heads and staff who are undertaking excellent work. That is the feedback from my area.

I hope that we close the petition, given that the Minister for Enterprise and Lifelong Learning is in the throes of considering the review that was undertaken. At the same time, we should urge the minister to learn the lessons that were identified in the review and to deal with the issues.

**Ms White:** The people from colleges in Helen Eadie's area who have contacted her seem more than happy with how the colleges are run. However, it is a different scenario in Glasgow. We all know from the papers about the case involving James O'Donovan at Glasgow Central College of Commerce. I do not want to speak about individual cases, but something needs to be done and the situation must be reviewed. The National Union of Students Scotland says that the governance system does not work properly. There are other concerns in addition to those of the petitioner.

The submission from the Association of Scottish Colleges mentions the package of measures in the governance and accountability review and the Executive's intention to look at that after two years. How close are we to that review being looked at?

**The Convener:** I am not sure. We could ask that question.

**Ms White:** That would be helpful. Helen Eadie says that the governance of colleges works fine in her area, but the troubles that we have had in Glasgow—

**Helen Eadie:** No; I am saying that we should allow SHEFC to deal with those problems. That should be one of the products of the review that has been taking place.

**Ms White:** That was the point—

**The Convener:** Sandra, the clerks advise me that the Executive will look at the review again in March 2005.

**John Scott:** Given that ministers announced the package of measures that were aimed at modernising standards in March 2003, 2005 seems to be a sensible time to conduct a review.

**Ms White:** That is what I was thinking, and it would allow us to get some more information.

**John Scott:** March 2005 is only six months away, but the new governance procedures will only just have had time to bed in. An earlier review would have been pointless.

**Ms White:** You have a point about the review date being only six months away. However, I have concerns about the way in which the situation is being handled in Glasgow. That is the big problem.

**Mike Watson:** Sandra White is right—there have been some serious problems in Glasgow and in one or two other further education colleges in the west of Scotland. Motherwell, in particular, springs to mind.

The matter was mentioned yesterday in this very room, during consideration of the Further and Higher Education (Scotland) Bill, when the Enterprise and Culture Committee heard evidence from the Educational Institute of Scotland's further and higher education section in relation to the governance of colleges. The EIS stated in its submission—I have a copy with me—that it was disappointed that there were no proposals for governance and accountability changes, particularly in relation to the appointment of board members. When that bill reaches stage 2 after the turn of the year, there will be an opportunity for such proposals to be made, but the Executive's position is clear and consistent: it does not believe that change beyond that which is already being considered is necessary. Even if we wait until March 2005, none of the indications that I am hearing suggests that the Executive will change its position.

I agree with Helen Eadie's point—there are many well-run colleges that are effective in what they do for their communities. The original establishment of the boards was skewed too much towards the business community and I think that more balance must be introduced into them. An amendment to that effect could be lodged to the Further and Higher Education (Scotland) Bill, which will merge the further and higher education funding councils.

**The Convener:** What do members recommend that we do with the petition?

**John Scott:** I would probably close the petition. We sought to have the inquiry into the governance and management of Scotland's FE colleges. That has happened and we now have new guidelines in place, therefore the petition's objectives have been achieved.

**Members** indicated agreement.

### **Code of Conduct for Councillors 2003 (PE702)**

**The Convener:** PE702, which is from James Milligan on behalf of Helensburgh community council, calls on the Parliament to review the code of conduct for councillors 2003, in particular with regard to their role in planning applications.

At its meeting on 4 February 2004, the committee agreed to write to the then Minister for Finance and Public Services, the then Minister for Communities and the Convention of Scottish Local Authorities. In his response, the Deputy Minister for Finance and Public Services highlights the fact that

"The Standards Commission has agreed to revise its Guidance to make clearer that it is right and proper for councillors to be able to hear the concerns of their constituents, and all councillors can, therefore ... assist constituents in bringing concerns to the attention of planning officers."

The deputy minister also states that the Standards Commission has been asked to look into the issue of inconsistent interpretation of the implementation of the code and that he sees no need for a comprehensive review of the code at this time.

The Minister for Communities states in her response that the Executive intends to amend the legislative framework and supporting guidance to ensure that

"a full record of relevant factors in deciding planning applications, and the reasons for the decision, always be made publicly available."

COSLA states that it

"can see no reason, at present, as to why the changes proposed in the petition should be carried out,"

and that

"the suggested deletions outlined in the petition would serve to weaken the regulation of councillors regarding planning applications and have a detrimental impact on impartiality."

Do members have any comments?

11:30

**Jackie Baillie:** I declare my local interest as the MSP who covers that part of the world. This is a positive example of a petition changing what goes on, in terms of both legislation and the guidance for councillors in a planning context. My only

negative comment is that the response from COSLA indicates that it is slightly out of touch with what is going on in communities. That said, I welcome the positive response from ministers to have action taken by the Standards Commission so that guidance is revised and councillors can participate freely and inform public debate in a way that some councillors feel they have, so far, been unable to do. For the Minister for Communities to agree that the Executive will amend the legislative framework to reflect the petitioners' concerns is a positive step.

There are two residual issues on which it would be useful to have clarification. First, can we write to the Standards Commission, asking whether it has amended the guidance, what form the guidance has taken and whether it has been distributed to local authorities? Secondly, one issue in the papers—whether to site any nuclear waste at Coulport—was a matter of planning in relation to a reserved issue. I understood, from the then Deputy Minister for Environment and Rural Development, that Crown immunity was about to be removed from planning considerations and that planning would, ultimately, be a matter for the local authorities. That may be with reference to the Scottish Executive, but it would be helpful to have clarification of that point. It is a planning issue that will excite local interest and on which councillors have commented. Clarity on that point, following on from the minister's letter, would be helpful.

**Helen Eadie:** I accept everything that Jackie Baillie has just said. She mentions the guidance and whether the Standards Commission has issued it. Will the Standards Commission write to all the local authorities, or is it the role of the Scottish Executive to ensure that that guidance is sent out to councils? I seek your guidance on that, as I am not sure whose role it is to communicate that information to councils and councillors.

**The Convener:** It would be wrong of me to give an answer on that. Jackie Baillie's suggestion that we write to the Standards Commission to get the matter clarified might be the best way for us to get that question answered.

**Helen Eadie:** If the Standards Commission could clarify that point, that would be good.

**John Scott:** The key point is that, if new guidance is to be issued, that should be done forthwith and as soon as possible—to repeat what I have just said. It is interesting to note, in Tavish Scott's letter to the committee, that the situation has been brought about by the European convention on human rights. That was incorporated in 1997 and many planning decisions have been made since then to which, apparently, councillors have acted not as they might have done had they known of the legislation and how it affects them. There is a can of worms in there. It is

vital that councillors are made aware of the change.

**Helen Eadie:** Fife Council has been very much aware of the ECHR and has issued clear guidance to all councillors who are involved in planning. However, Jackie Baillie is right about COSLA being out of touch on this issue. I do not think that there is any way in which we can rectify that, but we need to note it.

**The Convener:** We agree to do that and to try to speed up the process.

*Members indicated agreement.*

**John Scott:** It is vital that a sense of urgency is injected into the process.

### Local Government Elections (PE726)

**The Convener:** PE726, by William A Perrie, calls on the Parliament to urge the Executive to appoint an independent body with responsibility for the regulation and training of returning officers for local government elections and calls for a complaints procedure to deal with any irregularities concerning those elections.

At its meeting on 9 June 2004, the committee agreed to seek comments on the issues that were raised by the petition and, in particular, views on the adequacy of the current system for complaints about the conduct of local government elections. The committee wrote to the Scottish Executive, COSLA, Renfrewshire Council, the Electoral Commission and the Society of Local Authority Chief Executives.

Do members have any comments on the detailed responses that we have received or suggestions on how to deal with the petition?

**Mike Watson:** The response from SOLACE, which states that the Electoral Commission should be given the same statutory role for Scottish local government elections as it has for other elections, is interesting. That may provide what the petitioner seeks. We should ask the Executive for its views on that proposal.

**Ms White:** I agree with Mike Watson. I know Renfrewshire Council; I cannot declare an interest because I am not a member of it now, but I know most of the people who are involved. I do not want to go over old ground. However, when I consider the amount of stuff that went missing, and when I look at the response from SOLACE and see that COSLA agrees with it, I agree that the best course of action would be to do what Mike Watson has suggested and invite the Executive to comment on what has been said about the different elections and the statutory role of the Electoral Commission.

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

*Members indicated agreement.*

### Scottish Public Services Ombudsman (PE745)

**The Convener:** PE745, from Yogi Dutta, calls on the Parliament to urge the Scottish Executive to amend the Scottish Public Services Ombudsman Act 2002 to incorporate a range of measures in relation to the accountability and responsibilities of the ombudsman and to produce guidance notes on the procedure for investigating a complaint.

At its meeting on 23 June 2004, the committee agreed to seek the comments of the Scottish Public Services Ombudsman on the issues that are raised in the petition. In particular, we sought comments on the petitioner's claim that he did not receive details of the reasons for the decision that had been taken in relation to his complaints and the fact that he was not allowed to appeal the decision. The committee also asked for further details of the service standards to be produced, a timescale for their publication and confirmation of whether there are any plans to produce guidance notes on the procedure for investigating a complaint.

The ombudsman states in her response:

"I am satisfied that the response to complaints which Mr Dutta has made to my office fully explained why it had been decided following full examination that there was no basis for a formal investigation. The 2002 Act formally requires us to give such an explanation whenever we decide not to investigate a complaint."

The committee has received a further letter from the petitioner. However, that letter appears to relate primarily to the petitioner's own case, in which the committee is unable to become involved. Do members have views on the matter?

**Jackie Baillie:** May I not take a view, convener? I know that it is unusual for me not to take a view, but the specifics of the gentleman's complaint relate to my former employer. Although that is not a registrable interest, I would rather not take any part in the discussion.

**The Convener:** I understand that. Thank you.

**Helen Eadie:** It might be appropriate to write to the petitioner to ask him to give his views on the response from the Executive.

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

**John Scott:** It would be sensible also to write to the ombudsman to request clarification of the guidance that is made available in hard copy and to request a response on the issue of service standards.

**The Convener:** Yes. We can consider the matter when we get responses from both sources and make a decision at that point.

*Members indicated agreement.*

### Sewage Sludge (PE749)

**The Convener:** In PE749, the petitioner calls on the Scottish Parliament to seek a moratorium on the spreading of sewage sludge pending a full inquiry into its safety by a parliamentary committee and as a minimum—depending on the outcome of such an inquiry—to initiate legislation at the earliest opportunity to discontinue the current exemptions for spreading sewage sludge and to ensure that such operations are subject to planning control, including a public local inquiry.

At its meeting on 23 June 2004, the committee agreed to invite comments from the Minister for Environment and Rural Development, and to invite a response on the previous committee's second report of 2003, on the health issues that had been raised by PE327, by Blairingone and Saline Action Group, on sewage sludge spreading. The committee also agreed to write to the Scottish Environment Protection Agency and Scottish Water.

Responses have been received, together with a letter from David Mundell MSP, in which he encloses a letter of support for PE749 from Sanquhar and district community council. David has joined us this morning. Do you have any information for us or comments to add?

**David Mundell (South of Scotland) (Con):** In respect of the Sanquhar situation and the Newcastleton one, which was the instigator for PE749, the sewage sludge activity has stopped because of public pressure in the area. For the communities that are involved that outcome is satisfactory, but the issue of sewage sludge still needs to be addressed.

The most serious difficulty that faces communities is the lack of what they perceive to be independent scientific evidence. I have attended a number of public meetings and, other than the person promoting the sewage sludge dumping, no one has given a view on whether it is safe. That is a serious flaw in the process. Unsurprisingly, members of the public are concerned when they learn that sewage sludge is being dumped, but they cannot access independent advice about it. At the public meetings that I attended, that caused serious problems, because the only person who was arguing that it was safe was the promoter. That highlights a problem in the role of SEPA, which tends to take a reactive approach and say, "Once it's started we'll monitor it, and if it goes wrong we'll do something about it." People are looking to receive assurance that the process is safe before the dumping starts.

**Jackie Baillie:** The papers that we have received contain helpful responses from SEPA, the minister and Scottish Water, which all indicate

that the area is well regulated. Obviously, there needs to be a debate about that but, as a first step, perhaps we should send the responses to the petitioners, allow them to look at them and, if need be, come back to the committee. The responses contain a lot that will reassure the petitioners.

**John Scott:** In addition, we should copy the responses to Mr Mundell and Sanquhar and district community council, because they have had similar experiences.

**Helen Eadie:** The responses should also go to Blairingone and Saline Action Group. Ross Finnie states in his letter:

"I note at the outset that the reason your Committee has yet to receive a response to this report is that the predecessor Committee did not ask for one."

I was on the committee at that time, and I am surprised that we did not ask for a response. Given that we were remiss and did not ask for a response, we ought now to send the response to Blairingone and Saline Action Group. That was a sad omission on our part.

**John Scott:** It is relevant to note, however, that sewage sludge has not been dumped in Saline and Blairingone since 1997 or 1998. That is a completely different issue.

**Helen Eadie:** But it would be reassuring for the action group to see the work that has gone on. Jackie Baillie made the point that the reaction has been comprehensive, and it would be reassuring to close the loop for the public, so that they know the great extent of activity that has gone on. It would require only a letter to the people involved.

**The Convener:** Absolutely. We did a similar thing for Margaret Ewing, who had not had sight of the responses. We will send the information that we have to David Mundell, and we will welcome his comments on it. We will also send it to the community organisations that he has been in contact with, and ask them to respond.

**David Mundell:** That is a helpful suggestion. My comments would include the observation that the sort of mechanism that has obviously been used in the present case in response to complaints needs to be in place when an application is made. That would mean that people could be reassured and have regulatory confidence when an application was being considered rather than during a protest.

11:45

**John Scott:** Mr Mundell has raised an interesting point about the need for SEPA to play a more proactive role. If it is not playing a proactive role and is failing to provide reassurance for communities, that is not serving anyone's interests. Would it be worth sending a copy of the

*Official Report* of this part of our meeting to SEPA and inviting it to respond to the suggestion that it is not taking a proactive enough role? The fact that SEPA's role is entirely reactive is causing difficulties to communities that it should have reassured.

**The Convener:** I see no difficulty with that suggestion. It is worth asking SEPA for its view on that perception of its role. I look forward to receiving those responses. We will send that information to David Mundell and wait for his comments on it.

**David Mundell:** Thank you, convener.

### **Scottish Legal Aid Board (PE751)**

**The Convener:** PE751, which was submitted by Ronald Mason, calls on the Scottish Parliament to initiate an inquiry into the procedures and practices of the Scottish Legal Aid Board and to amend the rules governing eligibility for legal aid to include an automatic right for the disabled.

At its meeting on 23 June 2004, the committee agreed to write to the Executive to seek an indication of whether there was any evidence to suggest that disabled people are being discriminated against when they apply for legal aid. The committee also agreed to write to SLAB, the Law Society of Scotland and the Disability Rights Commission.

In its response, the Executive states:

"Scottish Ministers ... have come to the view that the disabled should not be automatically exempted from the statutory tests."

On discrimination, it says:

"we are confident that existing legal aid legislation is not discriminatory but if evidence of such is forthcoming, I can assure your Committee that Scottish Ministers will consider what action is needed to correct this."

The DRC says that it

"is unconvinced that there is any compelling argument to be made that, as a matter of course, disabled people should be eligible for legal aid."

SLAB states:

"we would have concerns about introducing an automatic right to legal aid for particular groups of people. Such a blanket right could result in inequitable results for other sections of society."

The Law Society argues that

"Mr Mason's proposition taken to its logical conclusion would mean that disabled applicants of substantial means could receive public money to fund cases".

Do members have any points?

**Mike Watson:** I found that there was more to the petition than met the eye. The responses of the Executive and of the three organisations suggest that no further action is necessary,

because they—especially the DRC—do not think that there is any case for disabled people to get legal aid automatically. However, the DRC also says in its letter:

"as far as the DRC is aware, there have been no successful applications for legal aid for DDA cases in Scotland."

It goes on to say that it is aware of anecdotal evidence of the difficulty of securing legal aid for such cases, but says that the evidence is not firm because SLAB does not keep any details about such applications.

SLAB says in its reply:

"the Board has no evidence of the existence of discrimination against disabled people".

How could it have such evidence, as it does not keep evidence? We should say to SLAB that monitoring should take place. It does not seem to be unreasonable to expect the board to keep information on the basic categories of application that it gets. Otherwise, how can it ever be said with confidence that disabled people are not being discriminated against? The fact that there is no evidence of such discrimination is simply a consequence of the fact that SLAB does not keep evidence about applications. To some extent, that is a side issue, but it impacts on the point that the petitioner has made. I want us to write to SLAB on the issue.

**The Convener:** That is a valid question, to which it would be interesting to get SLAB's response.

**Helen Eadie:** I agree with that approach, but on the fundamental issue of automatic entitlement to legal aid for disabled people, I find the responses that we have had from all the agencies to be satisfactory. Monitoring is an important issue. I would hope that all organisations would take such issues into consideration. I think that it would be right for us to write to SLAB on the specific point that Mike Watson has raised.

**John Scott:** Yes. It would also be sensible to write back to the petitioners, because they might know of examples of discrimination, even if, with the best will in the world, all the organisations that we have written to do not.

**The Convener:** Do members agree to do that?

**Members indicated agreement.**

**The Convener:** That completes our business.

**Ms White:** Before we close, I congratulate the convener on securing a parliamentary debate on institutional child abuse in connection with PE535, which we considered a few weeks ago.

**The Convener:** Thanks.

*Meeting closed at 11:50.*





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