

PUBLIC PETITIONS COMMITTEE

Wednesday 2 February 2005

Session 2

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PUBLIC PETITIONS COMMITTEE

2nd Meeting 2005, Session 2

CONVENER

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

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Helen Eadie (Dunfermline East) (Lab)

*Rosie Kane (Glasgow) (SSP)

Campbell Martin (West of Scotland) (Ind)

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

*Mike Watson (Glasgow Cathcart) (Lab)

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

Robert Brown (Glasgow) (LD)

Professor Alexander Davison

Wendy Frost

William Galloway (Parents and Residents against Masts)

Tom Hay (Fishermen's Association Ltd)

Janis Hughes (Glasgow Rutherglen) (Lab)

Richard Lochhead (North East Scotland) (SNP)

Carol MacDonald (Cod Crusaders)

Jamie McGrigor (Highlands and Islands) (Con)

Ken McInnes (Parents and Residents against Masts)

Robert Mitchell (Fishermen's Association Ltd)

Mark Mulholland (Parents and Residents against Masts)

Len Wyse

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 6

Scottish Parliament

Public Petitions Committee

Wednesday 2 February 2005

[THE CONVENER *opened the meeting at 10:03*]

Items in Private

The Convener (Michael McMahon): Good morning and welcome to this meeting of the Public Petitions Committee. Campbell Martin sends his apologies, as he cannot be with us today.

The first agenda item is on items in private. It is uncommon for this committee to hold anything in private, but it is standard practice for parliamentary committees to consider draft reports in private. Do members agree to take items 4 and 5 in private?

Members *indicated agreement.*

New Petitions

Fishing Industry (PE804)

10:04

The Convener: The first new petition is PE804, on the Scottish fishing industry, by Carol MacDonald and Morag Ritchie, on behalf of the Cod Crusaders, calling for the Scottish Parliament to use its influence to return control of the fishing industry to Scotland. Carol MacDonald is here to make a brief statement to the committee in support of the petition. She is accompanied by Tom Hay and Robert Mitchell.

Welcome to the committee. You have a few minutes in which to make an opening statement, after which we will discuss the issue.

Carol MacDonald (Cod Crusaders): We thank you all for taking the time to give the petition for national control a hearing. We hope that you can all set aside your party-political views and judge the petition from your heart, rather than from a political level.

The Cod Crusaders represent only two voices from the 162,500 people who signed the petition calling on the control of fisheries to be withdrawn from Europe and returned to Britain. For the past 33 years, the common fisheries policy has not only let the fishing industry down, but led dependent communities into further poverty and decline. Communities the length and breadth of Britain have witnessed their economies—generated from a once thriving industry—slashed by half. Britain has decommissioned 265 vessels over the past two years, which has caused countless instances of unemployment and bankruptcies for many businesses.

We cannot stress enough to you that the petition raises a severe community issue. In the three minutes that are allocated for this hearing, it is impossible to give you an insight into the broader picture of the havoc that the policy has caused in communities. We urge the Scottish Parliament to use its influence on the Westminster Government to remove British fisheries management from Europe and return it home, to be governed and managed at British level. If that happens, we might witness the revival of a much-needed industry and, most important of all, the revival of community spirit.

The Convener: We will now address the wider issues. I open up the meeting to members to ask questions of the petitioners.

Ms Sandra White (Glasgow) (SNP): Good morning. I congratulate you on the 160,000 signatures. The clerk can probably confirm that

your petition is one of the largest that we have had. You mentioned communities. Can you explain how communities have been affected? What effect has there been on young people and jobs? How many businesses have closed down?

Carol MacDonald: I will use Peterhead as an example. In the two months just before Christmas last year, three engineering firms closed down. We cannot begin to explain how our communities have been affected.

The major impact of decommissioning our industry has been unemployment. In addition, restrictions have been placed on our fleet in order for it to function properly. There are kids who will leave school in May, but, in the past 10 years, there has been a drop in the number of children who want to enter the industry because, as far as they can see, it is a no-win situation. They have witnessed the heavy penalties that the European Union has imposed on our industry, which have made it tougher for vessels to function when they are out at sea.

You have to think about the effect back home. There is an impact on processors and the people who service and maintain vessels. There is an effect further into the community, such as on grocers who supply vessels. The whole community infrastructure is coming apart at the seams and it is all down to the common fisheries policy.

John Scott (Ayr) (Con): Good morning, Carol, Tom and Robert. I think that we can all agree that the common fisheries policy has not worked. A petition with 160,000 signatures is easily the biggest that this Parliament has received. Are you absolutely certain that the only solution is to withdraw from the common fisheries policy? Perhaps you would all like to answer that.

Carol MacDonald: I am one voice out of 162,500 who backed our call for national control, but I think that it is the only solution. The common fisheries policy has existed for the past 33 years, but what good has come out of it? Look at the havoc that it caused last year. The outcome of the negotiations in Brussels in December was recently published. Our so-called industry leaders came back from Brussels and hailed the talks a success but, believe me, when you read the fine print, you will see that the outcome is far from an excellent deal. It is not a success.

Last year, we were able to hire days for our boats to function outwith the restricted days-at-sea regime. Doing that was fair enough. We could purchase an extra 10 days a month. However, there are no loopholes this year and the dedicated white-fish fleet will be restricted to fishing on only the 17 or 18 days that have been allocated to it. Again, that number has not been clarified to our

fishermen. They do not know whether they can go to sea for 17 or for 18 days. That is another way in which the CFP has failed. It has failed to deliver properly the information that was discussed at the December negotiations to the fishermen who go out to harvest the sea.

Tom Hay (Fishermen's Association Ltd): To answer Mr Scott's question, because of the enormous efforts of successive British Governments and the European Commission to suppress the truth over the years, there is grave misunderstanding about what the CFP really is. It is all very well to say that the CFP is working, but it might come as a surprise to some, perhaps most, people in this room today to hear that the CFP has nothing whatever to do with the Community's system of total allowable catches and quotas, which was cobbled together in 1982 and introduced in 1983.

The fundamental, bedrock principle of the CFP is about giving equal access to a common resource. That was agreed in 1972 and the British Parliament was fooled into consenting to sign up to it through the treaty of accession. That is the common fisheries policy. The treaties and all other legally binding documents are absolutely clear: all fish within the waters of all European Union maritime nations are a common resource to which all member states' fishermen have an equal right of access. That is the common fisheries policy.

To every problem in life, two important principles are attached. The first is the cause of the problem; the second is the symptoms that accrue from the problem. Now, for more than 25 years, the British fishing industry has been trying to sort out the problem by dealing with the symptoms. However, if you have a rotten tree in your garden that is not bearing fruit or leaves, you will not make it better by lopping off any of the branches—you have to get at the root of the trouble. The root of the trouble in this case lies in the principle of equal access to a common resource.

Mr Scott asked whether there was no other answer or whether we believe that scrapping the CFP is the only way in which to rescue the British fishing industry. The Fishermen's Association Ltd has researched the matter exhaustively, in conjunction with the save Britain's fish campaign and with the most authoritative legal testimony in attendance. There is absolutely no doubt that the only way of rescuing the British fishing industry—although we are in Scotland, I have to say "British", because we represent the save Britain's fish campaign; perhaps as we speak a little more here today, you will find out why we have to say "British" at the moment—is through the restoration of national control, by a United Kingdom act of Parliament or by an amendment to the existing European Communities act, over those waters that

are legally under our jurisdiction, according to the 1982 United Nations Convention on the Law of the Sea.

The principle of equal access to a common resource cannot be reformed. How often have we been told that the CFP has to be reformed from within? You can reform the TAC and quota system, but they are not the CFP. You might think that it is strange—I do not know how long I am allowed to go on here.

The Convener: If you give other people a chance to come in, that might help to develop the debate, but if you want to finish your point, feel free to do so.

10:15

Tom Hay: I just want to say that the TAC and quota system was introduced in 1983 in a sinister and surreptitious manner. The European Commission made the industry believe that the system was introduced to conserve stocks, but it had nothing whatever to do with the conservation of stocks. It was introduced to give the Commission the leverage, year by year, to cut the catching capability of the British fleet. When the derogation terminated on 31 December 2002—that is not the common fisheries policy, and I am happy to explain the difference—the Commission expected the TAC and quota system substantially to reduce the British fleet so that the remnant would fit easily into the single European Union fleet, which is the intention of the Commission. That is the thrust of the matter. I will stop at that point.

John Scott: So in your view the only solution is complete withdrawal from the policy.

Tom Hay: It is not just in my view, Mr Scott. As I said, we have studied the matter exhaustively. My association was set up in 1995—my vice-chairman, Robert Mitchell, is here today—but even before then we were absolutely clear that there is no way in which to rescue British fishermen except by restoring British sovereignty over our fishing stocks and rights. Notice that I am not talking about fishing grounds; for the Commission to talk about Community waters is a lie. They are not Community waters. Since when did the European Union become a sovereign nation with sovereign waters? It is not. Since we started to ask that question, the Commission has stopped talking about Community waters. It now talks about “waters under our jurisdiction”.

Let us get to grips today with the kernel of the matter, which is that equal access by fishermen from all member states to a common resource is written into the treaties and regulations. I have the latest regulation with me, if anyone wants to see it. It says that all Community fishermen must have

equal access to waters and resources that come within the jurisdiction of the member states. The only way of rescuing our fishing industry is to restore national control.

Before I finish, I should add that the matter has to go to Westminster before it comes back here, because there are no Scottish waters at the moment. UNCLOS gave the United Kingdom an exclusive fishing zone in the waters for 200 nautical miles from the baselines from which the breadth of the territorial sea is measured or to the median line. They are United Kingdom waters. We must have the matter taken back to Westminster and then brought here and we need you to work on it after that.

Helen Eadie (Dunfermline East) (Lab): Good morning. The European and External Relations Committee of the Parliament carried out research and published a report about three years ago on the issue that we are talking about this morning. One of the committee's recommendations was that there should be zonal management committees to embrace the fishermen, the environmentalists and the national Government. What is your view of that report? That recommendation would help to bring a degree of control and influence back to the Scottish fishermen. The Prime Minister's unit has taken up that point and is pressing ahead to try to achieve a similar solution. What is your opinion of that?

Robert Mitchell (Fishermen's Association Ltd): In our opinion, that policy is flawed. Originally, we were told that the committees were to be concerned with zonal management, but they have been diluted and will now act only in an advisory capacity. The problem is compounded by the fact that we are still bound by the laws and rules of the common fisheries policy.

Regardless of what the fishermen in Scotland want or think and regardless of the advice that they give in their advisory role on the committees, influence will be exerted by other users of the waters, such as the French and the Spanish, who want to take the place that they have as of right because of the opportunities that the EU has given them under the principle of equal access to the common resource. We do not see that as very helpful for the Scottish fleet.

Helen Eadie: Do you accept that in any negotiation with anyone it is better to be on the inside at the start of the process and to take part? Many people in Scotland wanted complete independence—I say that as I look down the table—but many others felt that it was better to have a devolved process, in which influence, power and the ability to control matters grow. Do you accept that that is a reasonable way forward and that the suggested management process is a realistic way to proceed?

Robert Mitchell: On the face of it, the proposal appears reasonable, but I have seen what the common fisheries policy has done in the past 20 years to the fishing industry. We just need to walk around Fraserburgh or Peterhead to see the devastation, which is all around the coastal villages—I come from one of them. Few vessels land fish at all—

Helen Eadie: Forgive me for interrupting. No one denies the point that you make, but is it not better to be on the inside and to participate in discussions rather than to be on the outside, refusing to co-operate?

Robert Mitchell: I intended to go on to that. We used to have control over our waters and we used to have zonal management. The UK used to manage its own waters, but we have given them away. The problem is that we will not have that power back. No mechanism exists for Brussels to return a power that it has been given. We will never again have a management role in our waters, unless we take management back by an act of Parliament.

People who live in Scotland and around the Scottish and UK coast have had the right to fish for many centuries. My family has been involved in fishing for many generations. However, that right is being gradually taken from us. Ten years ago, we built a vessel to fish non-quota species in deep waters. That was to help us to diversify from the main target species into non-quota stocks, which we reckoned would give us a wider base from which to fish.

The EU has allocated quotas in deepwater stocks in the past few years. We have 2 per cent of the overall catch of the fish that swim in what we would have termed Scottish waters—the rest goes to the French, the Spanish and other EU nations. Even the states that joined the EU recently, such as Poland and the Baltic states, have been given an allocation to fish those stocks. For some species, their quotas are bigger than ours. The EU's 20-odd years of devastating mismanagement must stop. It is driving our fishermen out of business and driving our communities down. If it does not stop shortly, I am afraid that we will have nothing left.

Jackie Baillie (Dumbarton) (Lab): I hesitate to ask questions, because I defer to the comprehensive experience of people around the room. I will take the witnesses back to first principles, so that they can help me to understand the matter. I am wedded to no particular view on the European common fisheries policy. From a layperson's perspective, I am much more interested in the outcome than in the process by which it is reached. Two points strike me. First, you want a vibrant industry. We have heard much about the impact on the industry. Secondly, we

want to conserve fish stocks for future generations. If we leave the common fisheries policy and adopt your model, how do we achieve both those aims?

Robert Mitchell: We have been told that fish that are caught and landed through UK ports and processed in the UK for export are worth about £500 million to the UK economy. However, the value of the fish that swim around the UK and are available for all fleets to catch is more than £2 billion. The seas around the UK coasts have a tremendous wealth of fish. The UK fleet needs to be able to catch more fish and target the bounty that is out there in a proper and ecologically friendly way. We are not saying that we want to go out to sea and catch every fish that swims in it. That is not possible anyway and we would be out of business long before we did it.

We need the people who are in control to take matters in hand to ensure that the UK fleet—the Scottish fleet is my concern—gets a decent share of what is out there. There are £2 billion of fish available to be caught and we must ensure that our Scottish fleet is viable. For 10 to 12 years the Scottish fleet has been put to sea with unviable and unworkable quotas. We hear the stories about black fish and how fishermen are pirates and are raping the seas. The Government has sent those guys to sea with unviable, unworkable quotas and they have had no option. Gradually, one by one, they are all dying off. That must stop.

Jackie Baillie: I do not want to misunderstand you. I am keen to consider conservation, because that is what people on the other side of the argument would do. If I picked you up right, your argument is not about catching less or more; it is about a fairer share of what is already caught.

Robert Mitchell: It is about a fairer share. We could quite easily take fewer fish out of the sea and leave more in the sea.

Jackie Baillie: I turn to the real experience on the east coast of America, where the cod stocks were completely destroyed by overfishing. Do you foresee that happening in Scotland if the situation continues unchecked?

Robert Mitchell: No. There is a misconception that the collapse of the cod stocks off America and Canada was caused by overfishing. The real problem was ecological. We have proof that the fish moved. Jackie Baillie can shake her head, but I am afraid that we are the experts when it comes to fishing. We know the skippers who were fishing out there. Tom Hay knows one of the best skippers in the UK, who fished out there and followed the fish all the way round into the Barents sea. He can tell you the story.

Tom Hay: A misconception of the truth has just been stated—what we want to get is the truth. If

any of you care to go down to the Hull and Grimsby area—to Hull especially—and get in touch with some of the skippers who are now retired but who fished the Grand banks of Newfoundland at the time when the fish disappeared, I suggest that you talk to Terry Thresh. He was one of the top skippers in Boyd Line Ltd and spent the last 20 years of his working life as the fleet manager of the company. Terry Thresh told a company of people in my house that he was making for the Grand banks of Newfoundland when the fish stocks disappeared. The boats that were coming home said, “Terry, you needn’t go and shoot there, because the fish have disappeared.” To cut a long story short, he steered for west Greenland. The water is deep from the mid-Atlantic to west Greenland. He had all his fish-finding equipment and temperature gauges on and the water was extremely cold. The cold water from the Arctic was coming down and meeting the northbound gulf stream and it was being pushed into the nose and tail of the Grand banks. As he steamed towards west Greenland the water temperature began to rise a little—half a degree at first and then another half degree.

Mid-water, the marks on Terry’s echo sounder and sonar equipment became prolific. He did not know whether that was caused by fish or feeding. He called his crew and said to his first mate, “I want to shoot here and see what this is.” The first mate said, “You can’t shoot here. We haven’t got warrant to shoot here.” He had huge 24in bobbins and otter boards for fishing on the bottom. He said, “We’ll shoot mid-water in so many fathoms of water.” The net came up after a few hours chock-a-block with large cod, large coley and large haddock. The boat followed the fish from west Greenland, to east Greenland, west Iceland, east Iceland and, as Robert Mitchell said, down into the Barents sea. A vast environmental, ecological change shifted the fish from the nose and tail of the Grand banks. There has been a total misconception about overfishing being to blame. I am not blaming this lovely lady here, Jackie Baillie—that is what she has been told.

We have had meetings with scientists in Aberdeen—with Robin Cook, for one. I do not know whether everyone here knows Robin Cook—Ted Brocklebank knows him. One day, he was telling us about the overfishing on the Grand banks off Newfoundland. I said to him, “Robin, you know better. You must know the real truth about this.” I told him the story and I asked him, “Did you know that that was the truth, Robin?” Robin—and you can ask him this any time you like—lowered his head and he said, “Yes, Tom, I did know that that’s what took place.” There has been a total misconception, like all the other misconceptions that have originated through the so-called common fisheries policy.

10:30

Jackie Baillie: I would just indicate that I posed that question because of the views that exist—I was giving you the opportunity to put your views on the record. Do not attack me when I ask this next question.

Tom Hay: I did not attack you.

Jackie Baillie: No, indeed. The obvious thing that suggested itself to me is that, if the Spanish come and fish in our waters—as you see it—why do we not go and fish elsewhere? I ask that because I need to understand the issue. *[Interruption.]* It is a legitimate question, Ted.

Richard Lochhead (North East Scotland) (SNP): But we have got all the fish.

Tom Hay: May I answer that?

The Convener: Could we let the petitioners respond, please?

Tom Hay: I apologise to Carol MacDonald if I am taking up all the time—she is the boss here.

Carol MacDonald: That is okay.

Tom Hay: Marine geography has conferred an extraordinary bounty on the British people—on those of us sitting around this table today. The United Kingdom lies right in the middle of some of the world’s richest fishing grounds. We had more than sufficient living marine resources to keep the British fleet economically viable before all the forced decommissioning took place, but we do not have sufficient marine resources to keep the fishing fleets of 15, and now 25, major nations in Europe economically viable. That is an impossibility for one nation. That is precisely the objective of the common fisheries policy, however. The word “common” means belonging equally to all.

The Convener: We have been joined this morning by Richard Lochhead and Ted Brocklebank. Before inviting them to contribute, I have a question based on the information that you gave us about Newfoundland. If it was the case that one fisherman could fish beyond the Grand banks, why did the fishing fleet in Newfoundland collapse? Surely, if the fish were only hiding further out, it would have been possible for that fleet to adapt its techniques to go after those fish.

Tom Hay: I am surprised that you talk about fish hiding a little further out. If you think that the Barents sea is a little way further out than the nose and tail of the Grand banks off Newfoundland, you need to study your geography a little more.

The Convener: The question remains the same, Mr Hay, with all due respect. If the fish have moved, why did the fishing fleet not adapt so that it could go after the fish somewhere else?

Tom Hay: But it did.

The Convener: The fishing fleet collapsed. The question that I am asking is why the fleet collapsed if the fish were still there, but just in a different place.

Tom Hay: Terry Thresh and the rest of his colleagues are not believed by the scientific fraternity, because the scientists want to blame overfishing as the cause. The Hull fleet all moved to the Barents sea. When the common fisheries policy went on the go and Iceland put its limits out to 200 miles, our ships had to go outside that limit. That is why the Hull, Grimsby and Aberdeen fleets collapsed. It was nothing at all to do with overfishing. The Grand banks fish moved to the Barents sea, but it took all this course to go there: west Greenland, east Greenland, west Iceland, east Iceland and into the Barents sea. The fishermen concerned are still alive.

Robert Mitchell: The Canadian and American fleets were not equipped to go the distances that our boats could go at that time. Our trawlers were distant-water trawlers; theirs were smaller vessels.

The Convener: The point that I was making was about whether the Newfoundland fleet adapted to the changing conditions.

Robert Mitchell: It tried to, but there were issues of quotas and access to foreign countries' waters. The Barents sea was limited with respect to access. Over the years, access to distant water stocks and the British share were reduced. In fact, at the moment, no UK company has any access to those stocks, because they have all been bought over by the Icelandic fleet. We could not fish in Russian waters for many years and the quotas for north Norway were significantly reduced. Because our guys' share grew less and less year after year, they found that it was no longer viable to fish there.

Richard Lochhead: I am very grateful for this opportunity to declare my support for the record-breaking petition that representatives of our fishing communities are presenting to the committee. As a member for North East Scotland, which contains Europe's most fishing-dependent communities, I believe that the petition reflects public opinion—and, given the performance of the common fisheries policy over the past 30 years, majority opinion—throughout the country.

I want to address some of the issues that committee members have raised. As far as the CFP, the future of Scottish fishing communities and the best methods of conserving fish stocks in Scottish waters are concerned, we should bear in mind that Scotland has some of the richest fish stocks in Europe and some of Europe's most fishing-dependent communities. Even as we speak, 40,000 Scottish jobs are dependent on fishing.

However, the current European fishing management system involves 25 member states sitting around a table once a year to decide the economic fate of our fishing communities and the conservation of fish stocks. As a result, many land-locked countries that have no interest in Scotland's fishing grounds—or, indeed, in fishing—are taking decisions on the North sea and the west of Scotland. It is all about European politics; those land-locked countries make deals with other countries on how they will vote because they expect the favour to be returned at other Council of Ministers meetings.

The EU has had 25 member states since 1 May 2004, and I believe that the CFP is even more untenable now than it was when the EU was made up of 15 countries. The record shows that there has been a decline in fishing-related employment, which means that the policy is clearly not protecting jobs. Moreover, given that some—though not all—stocks have experienced trouble over recent years, it is clear that the CFP has not delivered on conservation. We need to address such issues.

As far as alternatives are concerned, no one is arguing that Scotland would not have to reach bilateral agreements with other countries. Indeed, that would be only natural; after all, stocks cross boundaries. However, we need look only at the Faroes and Iceland to find examples of countries outwith the CFP that have very successful fishing industries. Of course, the prime example is Norway, which has a very successful fishing industry but will not join the EU because of the CFP. If anything, the CFP is an anti-European policy that is keeping new member states out of the EU. There are plenty of examples that show how Scotland could operate a successful fishery outside the CFP.

Over the past 30 years, fishing has been dominated by politics and the quicker we can depoliticise fishing management, the better it will be for the conservation of fish stocks and the economic future of our fishing communities. After all, the current system, in which 25 countries decide on fishing management and have more say than our own communities over the role of fishing in Scotland, puts politics before conservation and our communities. I think that we can all agree that that is not good for the future of fish stocks or of our fishing communities. That is why Scotland's Parliament should lend a sympathetic ear to the plea made in this record-breaking petition, which seeks our support. As the public representatives for our fishing communities, we must do what we can to act on the concerns that have been expressed today.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I share many of Richard Lochhead's sentiments. Sometimes, I find that in the chamber

people do not believe what the Scottish National Party and the Conservative party say about the fishing industry. This session has been valuable and indeed remarkable, because it has brought together two of the most knowledgeable people in Scotland—and perhaps in Europe—about the fishing industry. I must also mention Carol MacDonald, who has worked on the petition, but Tom Hay and Robert Mitchell are very knowledgeable men who will neither overstate the case nor try to disguise the facts from the committee.

I must apologise for snorting when Jackie Baillie mentioned the Grand banks. That issue comes up all the time. However, every bit of scientific evidence accepts that the cod left the Grand banks for ecological reasons, not because of overfishing. There may have been places where there was overfishing, but that was certainly not the case at the Grand banks. I add an addendum on why the Canadian fishermen have perhaps not redeveloped and re-equipped. With the cod going, shellfish and other species have moved in and there is now a lucrative fishery of another kind off the Grand banks. The cod may have moved elsewhere, but there are other things to catch.

The point that I want to make starts to take us into political ground. Tom Hay has considered the problem over many years. The petition is laudable and is the biggest petition that has ever come before the Parliament, but do you accept that the Scottish Parliament is the wrong place to bring it, in a sense? The Liberal-Labour Executive in the Scottish Parliament has consistently turned its face against coming out of the CFP and has followed the lead of the UK fisheries minister, Ben Bradshaw, and his predecessors. If we take into account all the people who have signed the petition, do you not feel frustrated that the Scottish Parliament will not deliver what you want and that the only way in which it can be delivered would be by changing the UK Government's attitude or electing a UK Government that is prepared to withdraw from the common fisheries policy? The outcomes are not possible here—they are possible only at Westminster.

The Convener: Before Tom Hay answers that, I counsel him that one of the petitioners asked us at the outset not to bring politics into the matter. Ted Brocklebank's contribution is not at all helpful. If the petitioners want to answer his questions, I am more than happy to hear what they have to say, but it should be borne in mind that they asked us not to bring politics into matters when they presented your petition.

Tom Hay: I did not bring any politics into the matter at all when I made much the same statement.

The Convener: I appreciate that.

Tom Hay: I did not know what Ted Brocklebank was going to say, but he is absolutely right. The United Nations Convention on the Law of the Sea handed to every nation in the world an exclusive fishing zone extending 200 miles from the baselines of the territorial sea or to the median line. That is not difficult to understand. A baseline in St Andrews Bay, for example, will be a line that is drawn between two points—it will not go to the beaches. Many people say that the Spaniards will come right up to the beaches, but they cannot at the moment, as there is a 12-mile derogation.

However, the waters are United Kingdom waters at the moment. An obnoxious crime against the British nation was introduced on the floor of the House of Commons back in 1972 and 1973, and the matter must be taken back there. We must not be under any illusions that we can do what we want to do in the Scottish Parliament at the moment. I am all in favour of what the Scottish nationalists are saying—indeed, the Scottish nationalists and the Tories are at one on the matter, which we are delighted about. Presenting the truth so irrefutably that it cannot be stopped or annihilated has been a tremendous struggle. We can give facts and figures on anything that you like to prove that what we are saying is absolutely correct. Ted Brocklebank is right, and he was not making a political point. The issue must be taken back to the floor of the House of Commons. Giving away control was a direct violation of the rights of the British people, but it was given away in the House of Commons.

The Convener: Mr Hay, I counsel you that you may be talking down your petition, as you have brought it to the Scottish Parliament but you are telling us that we cannot do anything with it. That might not be the best way of arguing your case. I think that Jackie Baillie wants to say something.

Tom Hay: Before you let in anybody else, I want to say that your attitude is absolutely ridiculous.

The Convener: Thank you very much.

Tom Hay: You are welcome.

Jackie Baillie: I will attempt to calm things down. When petitioners bring petitions to the committee, it is important to explore all the arguments that are out there, no matter how silly they may appear to other members. It is important that petitioners are given an opportunity to deal with opposing views and you have done so quite effectively today. However, it is not helpful for other members to act in the way that they have done, as doing so detracts from the petitioners' cause. I make that comment in a spirit of genuine openness, as you have taken time to come to present the petition today. What you have said about it perhaps being more appropriate for the petition to be dealt with at Westminster will be

recorded in the *Official Report*, but we are trying to progress the petition that you have brought before the Scottish Parliament.

10:45

Robert Mitchell: The petition is a cry for help from the fishing communities. We are doing what we can to go through the democratic process. We live in a free and democratic society; let us have some democracy in relation to this issue.

Carol MacDonald: We have asked for the Scottish Parliament—not the Scottish Government—to use its influence on the Westminster Government. That is all that we have asked for. As Robert Mitchell said, we are asking for help. If the Scottish Parliament decides not to help us, we will go it alone and take our fight to Westminster. We intend to do that anyway.

Morag Ritchie and I are mothers. Between the two of us, we have 12 kids. How long do we say no to them? Can you promise my kids and my grandkids a future? They and many kids like them are sitting up in the north-east of Scotland worrying about their future. Morag Ritchie's eldest son, Nathan—like many other kids—is thinking, "I leave school in May and want to follow in my dad's footsteps, but I don't know if there will be an industry for me to take part in." How long is my daughter going to be employed in the chip shop where she sells fish and chips? That is the reality of the problem. What are we going to do about the ever-increasing crime, poverty and drug abuse that we face every day in the north-east due to the decline in our communities that has been caused by the disastrous common fisheries policy?

The problem is severe in social and emotional terms. Families are going deeper and deeper into debt because dad cannot go out to sea and earn what he used to. It is not as though we are living the high life—far from it. Around 50 per cent of people in Fraserburgh get the new tax credits; that must tell you something.

All that we are asking for is help. We have addressed the issue with the Minister for Communities. Scotland is very lucky to have a Minister for Communities, but he simply passed the buck and told us that it was Ross Finnie's problem. That is not good enough. The job of the Minister for Communities is to deal with community regeneration, which is what communities in the north-east and across Britain need because of the common fisheries policy. He is responsible for issues relating to poverty, which is also rising because of the common fisheries policy.

The reality of the issue is that either the Scottish Parliament helps us or we go it alone. I mean it: we will go it alone and take our fight to Westminster. We might not win immediately, but

we will end up winning. Public opinion must count for something and I guarantee that, by the time that we get to Westminster, we will have at least 200,000 signatures. Given the fact that there is a forthcoming election, that has to account for something. Public opinion must prevail.

The Convener: I ask members to suggest ways in which we can help with the petition.

Ms White: I accept all the evidence that has been given. I am a west of Scotland person, but I eat fish and chips so I know that the issue affects our area as well. It is not just a north-east problem; it is a communities problem, as Carol MacDonald has said. I think that she has put her case very well.

Our papers talk about the treaty of Rome and the European laws. As a Scottish Parliament, we have to do something. I would like the petition to be sent to the Environment and Rural Development Committee or to the European and External Affairs Committee, or to both. It is particularly important that those committees read the comments that the petitioners have made today. The issue has been debated in those committees before, but they have not heard the background information that we have been given today. The *Official Report* of today's meeting should be sent to those committees. Of course, I am not that knowledgeable about this subject, but I did not know half of the background before. Perhaps we should also write to the minister to ask whether he has had any talks with Westminster on this matter.

The Convener: Usually, we write to a minister first and decide which committee should deal with the petition based on the minister's response. That would be normal practice.

Jackie Baillie: I am not opposed to what has been suggested; I am simply going to add to it and talk about different stages.

The suggestion that we write to the minister to ask for his view is good, but we should also bear in mind the fact that the House of Commons Environment, Food and Rural Affairs Committee is conducting an inquiry into this matter and it would be useful to inform that committee of the petition. Once we have considered the responses from that committee and the minister, we could consider whether the Environment and Rural Development Committee or the European and External Affairs Committee should deal with the petition.

Helen Eadie: I agree with Jackie Baillie. I would like to make a suggestion to the petitioners that I hope that they will take in the right spirit. The European and External Affairs Committee carried out a long and detailed inquiry into this topic and produced a full and detailed report. If they have not already read it, I urge the petitioners to get a

hold of it from our committee clerks. It discusses and answers many of the questions that have been raised this morning. It contains all-party recommendations—the Scottish nationalists and the Tories signed up to the report—and came out strongly in favour of the view that there should be zonal management committees, which are, in effect, regional advisory committees.

John Scott: I agree with Jackie Baillie that we should inform the House of Commons committee of the petition. Having seen the petition delivered to the Scottish Parliament, I know that there are barrel loads of signatures so I do not know whether this is a practical suggestion, but it might be useful to copy the petition to that committee as well. The fact that there are 160,000 signatures makes quite an impact and seeing the amount of paper involved might make that committee realise how strong the feeling in Scotland is about this matter.

The Convener: I think that the petitioners are going to take the petition and all the signed sheets back.

Carol MacDonald: Yes, we are taking it all down to Westminster next month.

Ms White: I am concerned about the timescale. The Scottish Parliament will be in recess shortly and the petitioners plan to take the petition to Westminster next month, but I would like the committees to be informed of the evidence that we have heard today. If a letter goes to the minister and he suggests that the petition does not go to a committee, what would be the position of the Public Petitions Committee? Would we still send the petition to a committee?

The Convener: In the past, we have asked the Executive for a response and advised the relevant committee that we have done that, sending it, for information, a copy of the *Official Report* that contains our deliberations. We would then wait for a response from the Executive before contacting the committee with a specific suggestion. There is no reason why the committees should not receive a record of today's discussion.

Does everybody agree that we should follow the suggestions of Jackie Baillie and Sandra White?

Members indicated agreement.

The Convener: I thank the petitioners for attending. We will keep you updated on the response that we receive from the Executive.

We will suspend the meeting for a couple of minutes to allow the petitioners to change over.

10:53

Meeting suspended.

10:55

On resuming—

Community Hospitals (Scottish Executive Policy) (PE806)

The Convener: Okay, colleagues, we will now consider our second new petition of the morning. PE806, which was submitted by Len Wyse, calls on the Parliament to urge the Executive to review its policy on community hospitals and, in the meantime, to introduce a moratorium on the closure of such hospitals, which are vital to the national health service in Scotland, especially in rural areas such as the Scottish Borders. Len Wyse will make a brief statement in support of the petition. He is accompanied by Professor Alexander Davison and Wendy Frost. I welcome you to the committee. You can make a statement, then we will discuss the points that you raise.

Len Wyse: Thank you for giving us the opportunity to appear before the committee. I will hand over to Professor Alex Davison to make the opening statement, if that is okay.

The Convener: That is fine.

Professor Alexander Davison: Thank you for affording us the opportunity to emphasise the points that we considered important when we formulated our petition.

The geography and demography of Scotland provide a challenge to the provision of an effective health service and it is likely that there will be no single solution that is applicable to all areas. The service needs to accommodate the requirements of the two large conurbations, the numerous smaller cities and the rural areas.

There is a clear need for centralised hospitals with high-technology facilities that are capable of achieving the highest standards in both diagnosis and treatment. Although we recognise the need for centres of excellence, not all diagnostic and treatment facilities can be provided in all hospitals. There is a need not just for large academic hospitals, but for a network of district general hospitals and smaller community hospitals. Our petition deals with the latter.

In the rural areas of the Highlands and the Scottish Borders, the distances involved and the density of the population create difficulties for health care. In general, rural areas tend to have a greater proportion of elderly people, many of whom live alone. In the Scottish Borders, for example, almost 22 per cent of the population are of pensionable age and 9 per cent are aged 75 or over. The corresponding national figures are lower.

There will always be a need for patients in such rural areas to attend, on occasion, both district

general hospitals and centralised centres of excellence, depending on the level of expertise that is required to diagnose and treat specific conditions. Although we recognise and welcome the current trend to provide more care in the community and to keep as many people as possible in their own homes for as long as possible, that does not diminish the need for community hospitals, because not all patients can be managed at home. With elderly and chronically ill patients, there is often a need for a level of care to be provided that is lower than the level of care that is provided by the district general hospital, but higher than that which can be provided in the patient's home. In addition, we have concerns about the number of staff who are required to provide such a service in rural areas, in view of the amount of time that they spend travelling.

Throughout Scotland, there are many small, community-based hospitals that provide valuable services to their local communities. We acknowledge that there are difficulties in maintaining such hospitals, as many are old and in need of refurbishment, and we are aware of the staffing problems that the working time directive presents. Nevertheless, we are convinced that small community hospitals provide a service to local communities that is not only required, but very much appreciated.

11:00

A recent report from the British Medical Association found that health policies that are

“developed in towns do not work in rural areas and that older people are disproportionately affected.”

Community hospitals have many benefits. Patients and their relatives do not have to travel far, which is a particular benefit for the elderly. Patients can receive rehabilitation following procedures in larger, more remote hospitals, thereby freeing up beds in the larger institutions. Respite care can be provided for elderly people and for people with chronic illnesses, with the added advantage that such patients will probably know the nursing and auxiliary staff and therefore be at less risk of incidental delirium, which can arise when people are admitted to unfamiliar and remote facilities. In addition, terminal care can be provided for people with illnesses such as cancer and other progressive debilitating conditions. Finally, communities are frequently proud and very supportive of their local cottage and community hospitals.

The demography of rural areas presents a particular problem for the care of the elderly. Respite care and terminal care are more frequently required for that group of patients and it is not appropriate for such care to be provided in district general hospitals or larger institutions. The

facilities that community hospitals provide thus support and complement the facilities that the larger hospitals provide.

There is an opportunity to review the provision of patient care throughout the community, in particular the place of local hospitals in supporting the health care needs of people who live in rural areas. There is an opportunity to develop such hospitals to include the primary health care team, community nurses, social services support staff, health care educationists and all who are involved in caring for people. The existing network of community hospitals could be developed as community resource centres that would not only provide health care, but meet social services needs. If the existing facilities are abandoned, it will be difficult and expensive to reinstate them. It is recognised that local provision has many advantages over a centralised service and the opportunity to review provision and develop a novel solution to the 21st century health care needs of a rural population is an opportunity not to be missed.

We sincerely hope that the Scottish Parliament will urge the Executive to introduce a moratorium on the closure of community hospitals, to enable a review to be undertaken to determine the most appropriate way of providing an integrated health service that takes account of the geography and demography of the country and of the care needs of given populations. We believe that there is an opportunity to develop a novel and effective solution that meets the specific needs of the Scottish population.

The Convener: Thank you. I open up the meeting to questions from committee members.

Mike Watson (Glasgow Cathcart) (Lab): I thank the three witnesses for making a very clear and concise case for community hospitals. They touched on a number of important points—indeed, they leave me with few questions to ask, because they made their case. However, I will raise a couple of issues.

I know that we cannot discuss the specific case of the Sister Margaret cottage hospital in Jedburgh. However, you are seeking a moratorium on the closure of such hospitals and I note that the information that you sent in support of the petition says, in relation to the cottage hospital:

“No decision from NHS Borders is expected to be announced until early next year”—

that is now this year, of course. It is not clear to me whether NHS Borders has suggested closing the hospital completely or downgrading it in some way and linking it with another health service facility.

As you know, the advisory group on the national framework for service change is considering rural services. Have the witnesses made a submission

on the matter in general terms, in the hope that that will inform the policy that the Executive adopts when it receives the group's final report?

Professor Davison: On your first question, I deliberately did not mention Jedburgh hospital, because we are considering not one particular issue but rural areas in general. However, in thinking about Jedburgh—which we could couple with Coldstream—it seems to us that the health boards are acting in a hotch-potch fashion and not in a co-ordinated way, with health boards considering their own little patch and saying, “This is what we think we should do and how we should redesign and reconfigure the service.” A more generic solution should be considered for Scotland. Small communities such as Jedburgh require a local service, but we could say the same about 200 other small towns and communities throughout Scotland.

The second issue is that we are aware that a review is being undertaken. The review group will visit the Borders on 17 February. The committee can be reassured that at least three people—and some more—will attend that meeting. We believe that it is vital to get levels of care that are appropriate for the community that is being served. We are not looking for a royal infirmary in Jedburgh; we are looking to get people into the most appropriate beds that their care demands.

Mike Watson: You made a point in your submission about services that complement those of larger hospitals. That point is well understood. I say in passing that the issue of patchwork reviews by health boards is not restricted to rural areas. In the west of Scotland, such patchwork reviews have been identified as a problem in relation to maternity services. I think that I am right in saying that the Minister for Health and Community Care has said that he has been telling health boards to think and act more strategically. I hope that that will overcome some of the problems that you have outlined.

Jackie Baillie: Like Mike Watson, I actively encourage the petitioners to have an input into Professor Kerr's advisory group. I am delighted that he will visit the Borders.

I have enormous sympathy with what the petitioners are saying, but I need to understand two things. First, is the model that they describe in effect enhanced primary care? Is that how they would describe it? Secondly, what is driving NHS Borders to consider the closure of the hospital in Jedburgh?

Professor Davison: Primary care services and all the other support services that patients need were fragmented. There is now much greater opportunity for partnership working between social services and health care services. There is an

opportunity to develop facilities, including primary care and the services that are provided by the community nurses who go out. That would perhaps also include an element of health care education and preventive strategies, combined with social services, so that the service is much more integrated. Therefore, when people had a problem—for the elderly, many of their problems are multiple problems—they could go to one place and get the various elements of their problem sorted out. That model could be dropped into Comrie, for example, or places in the south-west of Scotland. It is not about providing one solution for one place; we must find a solution that is much more imaginative and much more inclusive for the person with a problem, as their problem often has different ramifications.

Jackie Baillie: Am I right to understand that you are suggesting that the primary sector and social services should be integrated, rather than that the acute and primary sectors should be integrated?

Professor Davison: No. The acute and primary sectors need to be integrated, because people need to receive different levels of care. They need to go to the acute hospital when they have an acute problem. Often hospitals can deal with the acute problem, but that is followed by a period of rehabilitation, which should be done locally. The patient does not need to be in an expensive, whatever-it-costs-a-day bed to be rehabilitated. If we remove our community hospitals, that facility will be lost. That means that a backlog will build up at the centres of excellence, which should deal with the difficult problems, sort them out and pass the patient on to an appropriate service nearer their home.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): The point that you make applies Scotland-wide. I do not have knowledge of the problem that you mentioned in the Borders and in Jedburgh in particular, but in the Highlands—particularly the west Highlands—the problem seems to be the same. That was demonstrated to me during the recent adverse weather in the Highlands, when the west coast had a problem with its social services. People were in dire need of some assistance and care, but the power was off for two or three days, the storm was quite savage and those in need were isolated. Social services could not cope, and two small hospitals—one in Portree and one in Broadford—accepted quite a number of individuals into their care and keeping over that period. If we had not had the facilities to accommodate those who were in need of attention, we could have had a serious problem.

As you will be aware, quite an extensive debate and consultation about the possibility of closing the small units throughout the west Highlands has

taken place over the past couple of years. I am glad to say that the health board has not moved on that proposal so far, but I am not sure that the issue has been put to bed, and it might raise its head in future. The point that you make is important: in rural Scotland, we must ensure that we have provision in which social or medical services can be provided to those who are in need. We do not argue against the suggestion that professional services should be centralised—there is no great argument against establishments specialising in providing the best medical attention and expertise in, for example, open-heart surgery—but what solutions might we employ to ensure that the various health boards are encouraged to look more favourably on the small community units in the Borders and other parts of rural Scotland?

Wendy Frost: The Sister Margaret cottage hospital in Jedburgh has nine beds for a populace of some 6,000, so it is a small number of beds in proportion to the population and we need to extend the hospital rather than close it.

To answer Jackie Baillie's earlier question, one of the drivers behind the proposed closure—it is only proposed at the moment—is economic: the NHS board needs to save money and the Sister Margaret cottage hospital, being a small unit, represents a useful saving. If the European working time directive is applied, we need to employ two full members of staff at night, rather than one, so the unit would become much more costly if it retains only nine beds. Perhaps a solution would be to extend the hospital and the primary care services that it can provide in conjunction with other primary care facilities in Jedburgh. That could be a model not only for Jedburgh, but for many other small hospitals throughout Scotland.

Len Wyse: At the moment, the Borders area does not have a hospice, and it would be ideal for the community hospitals to work with, for example, Macmillan Cancer Relief to provide hospice care, rather than have separate hospices.

Professor Davison: John Farquhar Munro asked what the health boards could do. We must not consider Jedburgh alone, but we can take it as an example. The suggestion for reconfiguring the services in the Borders was entirely finance driven. When the health board was asked whether any needs assessment had been carried out to find out what the need in the community was before it decided how to reconfigure the services, its answer was no. If the health board was a commercial organisation, the first thing it would do would be to find out the requirement for the service, and health boards should be instructed to do that first. If the population is older and in need of services such as care for the elderly and

hospice care, we should consider that and ask how best we can provide for that need. We should not be asking how we can provide a service with the money that we have. I am not saying that money is unimportant; we know that there is no bottomless pit. However, the service should be led by what patients require in a particular area.

11:15

John Scott: I, too, congratulate the petitioners on lodging the petition. I also congratulate Professor Davison on the succinct way in which he has presented the case.

Your call for a moratorium on the closure of community hospitals is timeous. Like you, I think that Professor Kerr and his group must look beyond finance, which has previously driven considerations about community hospitals. Community needs are vital. Speaking from personal experience, I know how important the issue is for the many rural areas with aging populations. It is not necessarily rocket medical science—if I may mix my metaphors—that is required to look after people in rural areas. I do not dispute the fact that we need centres of excellence, as John Farquhar Munro said, but we also need local community hospitals or local facilities—call them what you will. I think that the petitioners are spot on in calling for a moratorium before any decisions are made. I cannot speak for other committee members, but I am of the view that that is just good sense. We are in real danger of losing those facilities right across Scotland.

Will you expand a little bit more on the problems of aging populations and elderly people in rural communities and the difficulties of moving people to centres of excellence for treatment? For example, it can take hours to get to centres of excellence by car. Despite the best of intentions, those journeys go round all the houses and take three or four hours to get to, say, Edinburgh from somewhere such as Hawick—they should not take that length of time. If you would like to elaborate on and develop your theme around that point, I would be very grateful.

Professor Davison: What you say is absolutely true. If we are talking about an elderly population, we must look at where they live, what sort of accommodation they live in and whether they live alone or are supported by relatives. Increasingly, elderly patients are being isolated in the community because they live alone. Such people require to go to all sorts of hospitals—some of them will require to go to centres of excellence. There is no way round that. However, greater attention should be paid to getting them back from centres of excellence to local district general hospitals. Once they are stabilised, they should go from there to community hospitals that are in their own towns.

I alluded to incidental delirium. People go into hospitals where they are infrequently visited by their relatives and which are very strange surroundings for them. They do not know any of the staff and their local general practitioner cannot drop in to find out how they are progressing, because the patient is 40 or 50 miles away. Of course, that is exactly the problem in the Western Isles. People in those situations become disorientated and much more ill than they would be if they were in more familiar surroundings. That is not to criticise in any way the hospital staff, who are unquestionably excellent. It is just that patients whose mental faculties are diminishing find it very difficult to cope with and adjust to unfamiliar surroundings.

We need patients to be back where all sorts of people, who might just be going down to the local shop, for example, can pop in and ask them how they are doing. That support still exists in small rural communities, but not necessarily in towns. I think that such support is very helpful because, by providing it, we are getting people back into their own homes much more quickly. Wendy Frost knows about that.

Wendy Frost: In a matter of three or four weeks in my local village, which is very small, three people were in need of respite care, which was provided in the cottage hospital. That must be happening in other communities as well. The respite care was desperately needed by the patient, but the carers also needed it. Another side that we should consider is that cottage hospitals also provide for the carers. Respite care and travelling affect the patient and the carer. In rural areas at the moment, carers are providing the vast majority of care in the community. That carer might be, and often is, an elderly spouse who either cannot drive or who finds public transport difficult or impossible to use, but who also needs breathing space so that they can continue to care and provide relief for the health service.

John Scott: Thank you, and I congratulate you once again on your petition. It has a particular resonance for me because my parents live in a rural community. You are spot on and I hope that when we come to make a decision about the petition, we will decide to urge Professor Kerr to take note of what you say today.

Helen Eadie: I also have a great deal of sympathy with the petition. I have the privilege of having been a member of the Health Committee for the past 20 months, so I am aware of the issues as I have seen them at close quarters right across Scotland. The Health Committee has taken evidence on the matter and although we might not have considered your area specifically, we have considered the impact throughout Scotland, which was very illuminating. Our committee split up and

visited the Borders, the Western Isles and the city of Glasgow, which was very informative. I was also privileged to be a candidate in the Borders area so I know Roxburgh, Berwickshire and Jedburgh very well.

I have two or three questions. The witnesses have talked about needs assessment. I would like to know about the other side of the coin and the ability of the health service to provide trained personnel to deliver such services throughout Scotland. Professor Davison, how can we resolve the problems of the shortage of trained personnel in Scotland and deliver the type of cottage hospital that you are talking about?

Professor Davison: It would be good if I could give you a nice, concise answer, but I do not think that there is one. Our concern is that if we move patients into the community and provide community nurses, we will need more community nurses because of the travelling time. If the community nurses are based in the Borders general hospital at Melrose and have to travel to Jedburgh, they are going to have 40 minutes of travelling time in the day just to see one person. Therefore, I do not believe that just moving care from the small community hospitals into the patient's own home will help to solve staffing problems because that will create a need for more staff that are trained in a different way.

One of the advantages that community hospitals might have over the big central hospitals is that they can often recruit people from the local area because there is local support for those hospitals. A highly qualified nurse might not be needed all the time and many nursing assistants and support workers could be involved. We could use a lot of people in the community and if we develop community hospitals into resource centres, other local people such as physiotherapists and occupational therapists will be able to help in the rehabilitation of patients.

There is a staffing problem that will be aggravated if we move people who need to be cared for out into the community. By having people in local hospitals, we could improve levels of recruitment.

Helen Eadie: Your argument is persuasive; I can see the rationale behind it and I could be convinced.

My other question is related to staffing. Wendy Frost mentioned the impact of the EU working time directive and said that two people will have to be employed where one was employed previously. Is that accurate? I understood that the limit applies only to the number of hours that an individual works over a given time span and that it does not relate to the number of personnel. Will you clarify and amplify that point?

Wendy Frost: We are given to understand that, during a night shift, qualified members of staff are required to have 10 or 20 minutes' break. However, with only one qualified member of staff, that cannot be done.

Helen Eadie: That is helpful. I was not quite sure what your point was, but I understand it now.

In making your case, have you made any international comparisons? I believe that Finland has a model exactly like the one that you propose. How widespread are such models? Do other countries with a major rural character use the model?

Professor Davison: I can speak personally about one or two European countries. Italy and Germany have different systems and provide much more community-oriented facilities for patients.

Helen Eadie: Does the system in those countries follow closely the model that you are promoting?

Professor Davison: Yes, in some respects.

Helen Eadie: That is helpful.

My final question is about the recent petition from the Belford action group, which related to the Highland area. Have you examined that petition to discover similarities and find out whether you can link up with that group's work?

Len Wyse: We have not done so, but we will follow that up.

John Scott: Rural communities often have people with nursing and medical skills, but there is a well-defined shortage of nurses and doctors in and around the centres of excellence in the major cities. Do you agree that a way of resolving that problem would be to develop community facilities, where there are people who are willing to work part time to deliver medical services, but who would not dream of going to Edinburgh or Glasgow to take up a part-time job because they are too far away? That would be a way of solving the problem of shortages of staff in and around the centres of excellence.

Professor Davison: You are absolutely right. After people are trained, they move and then find that they have to go 40 miles to work and pay for parking when they get there. They would be much happier if they could work locally.

Ms White: I will not take long, because most of my questions have been answered. From what I gather, the petitioners are looking for a more holistic form of care in community hospitals, not just health care. Glasgow had something like that in Blawarthill hospital, which was a nursing home, but to which people in the community could come and go. Sadly, the hospital no longer exists,

although we put up a fight to try to save it. Have you had any input into Professor Kerr's work on the agenda for change in relation to community hospitals? Do you intend to raise your ideas with him at the meeting of the advisory group on 17 February?

Len Wyse: We will certainly do that. We will have a bus load of people going with prepared questions. I wonder whether the *Official Report* of today's meeting will go to the advisory group.

The Convener: That is one measure that we will consider.

Len Wyse: That would help our case, but it would also help the advisory group by providing more evidence.

The Convener: I am not sure whether any of the members had thought of that, but you have certainly raised the suggestion and we will consider it.

Rosie Kane (Glasgow) (SSP): I thank the witnesses for coming; they have covered pretty well all the issues. Too often, local expert knowledge that is missing from the decision-making process comes to the committee and informs us. You are right that there is not a bottomless pit of money for hospitals, but there is loads of money sloshing about for other things. Sometimes, there is a bottomless pit, but it is often for the wrong issues.

You talked about incidental delirium and about people not having regular visitors. I agree totally with what you are saying. I think that you also said that a patient's recovery could be slowed down or halted if they did not have that kind of contact, access and familiarity.

The needs of the community should be put before money. However, if the economic argument is going to be made, is it not a false economy to take away a hospital if, by so doing, patients' recoveries are slowed down or stopped? People will continue to be sick and will need to go elsewhere in future and so on. Do you agree that it is a false economy in the long term to close these hospitals?

11:30

Len Wyse: I very much agree. If patients are not released from the general hospital into the community hospital, they cause bed blocking in the general hospital. If they are released into the community too quickly, a burden is placed on the budgets of council social work departments—in our case, Scottish Borders Council, whose budget is already seriously stretched. By closing the community hospitals, we are moving problems about; we are giving ourselves more problems, including more financial problems.

Rosie Kane: In a local consultation, the experts should come and listen to people say exactly how things are—we heard that earlier from the Cod Crusaders. The experts need to come into communities and hear about how people see the future. They also need to hear about what has happened in the past; too often, that is missing from the debate. I wanted to air that point and hear your views on it. Thank you for everything that you have brought to the debate.

Professor Davison: I agree absolutely with what you say. It is absolutely right. I add that, because the medical team may have been looking after the patient for 50 or more years, they have a heritage of knowledge about the patient that staff in a remote facility will not have. The general practitioner can go to the local cottage hospital to visit their patients and see how they are progressing. The GP knows their patients' home background and can say, "Now is the time to get this person home", for example. The GP's knowledge base on the individual is so much greater.

Rosie Kane: You make me want such an approach in Glasgow, but I think that we cannot have it.

Professor Davison: I am sorry. That was not my intention.

Wendy Frost: Professor Davison referred to a community resource centre as being a good model. In fact, we have a model of that type of provision in Scotland. I believe that it is in Auchterarder. An integrated centre there provides social and medical care and advice as well as training for staff—all within the same centre. We have spoken to the centre's staff. Perhaps that model could be taken forward as the model of provision to replace in a local care setting what we have at the moment.

The Convener: Does any member have a suggestion on what we can do to help PE806?

Helen Eadie: Perhaps we could start by taking up the petitioners' good suggestion that we send a copy of the petition and the *Official Report* of this meeting to Professor Kerr and his team. We should also seek the views of the Executive and one or two other bodies, such as the national workforce committee, the south-east regional workforce group, the national advisory group on service change and NHS Borders. It would be helpful to get answers back from all those bodies.

The case that the petitioners have brought before the committee this morning is interesting. As they have heard, the committee has a lot of sympathy for their case. Against the background of the unprecedented amounts of money that are going into the national health service, it seems strange that the petitioners are faced with the

situation that they have described. I wish the petitioners well.

The Convener: Are members happy to follow Helen Eadie's suggestion?

Ms White: Our briefing paper says that the Health Committee made a commitment to hold a debate on the issue. Do we have any feedback about that?

Helen Eadie: Yes. I was at yesterday's meeting of the Health Committee. A public debate is to be held in the Parliament and we were given a résumé of the arrangements. Information about the debate will shortly be put on the Parliament's website. People from all over Scotland will be invited to the debate.

We have no intention of disparaging anyone, but the strong feeling of the Health Committee is that we should not hear from the usual suspects but from people such as the petitioners and people in communities who want to comment. The Health Committee has just undertaken a workforce planning inquiry, which was a major piece of work. If the petitioners and committee members can put in the bedtime reading, I recommend that they read a copy of the inquiry report. It would be useful for people who plan to come to the debate if they could read the report beforehand.

Ms White: I take it that the petitioners will be notified of the date of that debate.

Helen Eadie: It will be on the Parliament's website. The petitioners can write to the clerk to the Health Committee to express an interest and the team of officials and members involved will decide who attends the debate, which will be a major event in the chamber. I think that it is scheduled to take place just after Easter.

The Convener: I thank the petitioners for presenting the petition. We will keep them updated on the responses that we receive.

Len Wyse: I thank the committee for giving us the time.

GSM-R Communication Masts (Planning Permission) (PE811)

The Convener: Our next petition is PE811, which is on permitted development rights for Network Rail in respect of communication masts. The petition, which is by Mark Mulholland on behalf of Parents and Residents against Masts, calls on the Parliament to consider and debate the permitted development rights that Network Rail enjoys in respect of the erection of 96ft-tall global system for mobile communications railway—GSM-R—masts in residential areas. Before being lodged, the petition was hosted on the e-petitioner website, where it gathered 1,343 signatures from 23 November 2004 to 10 January 2005.

Mark Mulholland is here to make a brief statement to the committee in support of the petition. He is accompanied by Ken McInnes and William Galloway. I welcome you all to the committee. You have time for an initial comment, after which members will ask questions and we will debate the issues that you raise.

Mark Mulholland (Parents and Residents against Masts): I thank the committee for inviting us. We make it clear from the outset that Parents and Residents against Masts is 100 per cent behind the principle of safe railways. We have no problem with that. We are here to highlight planning issues and not any health risks that are perceived to be associated with Network Rail masts, which are fine.

We have actively campaigned for a review of Network Rail's permitted development rights since August 2004. Network Rail needs planning consent to build new stations, bridges and tracks. However, no planning permission is required for masts of nearly 100ft in residential areas. We taxpayers fund the system, yet we can do nothing to protect our areas, which such constructions are ruining.

Local residents receive no warning that masts will be erected and no meaningful consultation takes place on the proposals. That is in clear violation of Scottish Development Department guidance note 18/1985 on permitted development rights. We have tried to obtain more information from Network Rail, but we do not have all the answers that we want. We have a note that Network Rail is not even subject to freedom of information legislation, so we are struggling against it.

Network Rail's permitted development rights mean that it does not require planning permission to erect masts. That is contrary to the situation whereby similar mobile telephone network masts, which are run by commercial operators, require planning permission, which gives the public a chance to protest and comment. In our case, the local authority rejects sites on the basis of visual amenity. Planning law has a clear loophole and we are campaigning for that loophole to be closed.

In response to a parliamentary question from Donald Gorrie on 23 December, Malcolm Chisholm said that the correct way for people to make representations to Network Rail was through their local planning authority. We in South Lanarkshire have done that strenuously. In fact, we even met the council at chief executive level. At present, we are not 100 per cent sure, but its response is not altogether positive.

Without a change in the current planning law relative to Network Rail's permitted development rights, the public have no protection whatsoever.

Network Rail has shown that it is happy to build the masts next to houses, and it is likely that that trend will continue throughout Scotland unless the Scottish Parliament acts quickly to close the loophole that is created by the permitted development provisions. We therefore ask that the Parliament review Network Rail's permitted development rights for masts in residential areas as a matter of urgency, in order for other communities in Scotland to be spared the anguish that many in Strathclyde have endured to date. We simply ask that Network Rail be required to go through the planning process like all commercial telecoms operators.

We have had the e-petition and motions from two MSPs who are here today. We have support from 52 members of the Scottish Parliament for those motions. Communities throughout Scotland need your help to defend them from Network Rail causing this appalling blight. It is hard to express the anxiety that we and our families have felt since the mast in Burnside was erected. The key question is, do you believe that it is appropriate that a 100ft telecommunications mast can be sited 15m from people's houses without the need for planning permission to be obtained?

The Convener: Thank you for bringing that to our attention.

Jackie Baillie: It is nice to put faces to names. I think that I have been e-mailed at various times by all of these gentlemen, as have other members. I declare a parochial interest, because the same 96ft masts have appeared in Helensburgh and along the line through Dumbarton. While safety is paramount—I am glad that you acknowledge that—it is not an excuse for bad practice.

Could you share your experience of dealing with Network Rail? Is it easy to deal with? Does it respond to questions? What was the consultation like, or did you, as has been the experience in some of my communities, wake up one morning to find a mast at the bottom of your garden? You talk about planning permission, but would an appeal mechanism sit better with what you are looking for? I do not know; I am looking for your view.

Ken McInnes: I will pick up on your first point. The first of our realising that our mast was being built—some of you may have seen photos of it; we have them if you would like to see them—was when Network Rail started building it. Network Rail did not notify us. In fairness, it wrote to us in the middle of August and said, among other things, "We're sorry. We've learnt our lesson." People in Jackie Baillie's constituency got the same letter more than a month later. A month after that, a mast was built in Finnieston, and people there did not seem to know about it. Prior notification does not appear to be happening. So the first answer is, we got no notification whatever. Indeed, we

phoned our council and it did not know anything about the mast, although it transpired that it had received a package of information in April 2003, which unfortunately was not responded to.

On your other point, I am not sure that it is a matter of appeals. I believe strongly that the masts should be subject to planning consent, particularly in residential areas. They are not small constructions. In our case, the mast is built on top of a railway embankment, so it is probably about 125ft up in the air. It is not like a normal mobile phone mast by Vodafone or Orange, or like a lamppost. It is huge. That is the only way to describe it.

Strathclyde is a pilot, after which the scheme will be rolled out throughout Scotland and the United Kingdom. We hope that the Scottish Parliament will at least debate the issue or consider it further, because there is a clear loophole in the planning legislation. We should at least examine whether Network Rail should be asked to obtain planning consent for masts, so that normal public consultation takes place.

You asked whether Network Rail was easy to deal with. The people there were very polite and courteous, but if I am being honest they have a standard answer. They answer letters, but their answers do not address the key worries of local residents.

11:45

Rosie Kane: I want to ask about consultation and Network Rail, because if you say the words "Network Rail" in the Scottish Parliament you get an e-mail from it within about three hours. Network Rail is very prompt at that point.

In the Strathbungo area of Glasgow, the problem is not just masts. The witnesses will know—and I think that some members of the Scottish Parliament are aware—that when Network Rail grabs land, it not only erects masts but clears trees, which compromises health and safety along the route. That has happened without consultation in the Strathbungo area, where residents had no opportunity to be involved in the process, although they knew that if trees were removed there would be a danger of flooding. We will wait and see whether problems emerge in the future.

If I wanted to knock down a wall in my house to put in a shower I would need planning permission, so it strikes me as bizarre that masts that attack a community's environment can be erected without planning permission. The planning process would allow consultation and enable people to consider the impact of masts on landscaping and health.

You have told me what I wanted to know about consultation and Network Rail's response. I want

to put on the record that the Scottish Parliament needs to consider carefully how communities are being treated. What will happen next as Network Rail and other organisations buy up land and do whatever they want without consulting communities? The petition gives us a perfect opportunity to bring the matter to the Parliament, to seek a better response and, I hope, to secure some justice and democracy for communities.

The Convener: Do the witnesses want to respond?

William Galloway (Parents and Residents against Masts): Network Rail has permitted development rights so that it does not have to deal with many planning applications that would probably be granted. However, we have stressed as much as we can do that there is no way that the mast at Burnside would satisfy the requirements of normal planning legislation. Network Rail is abusing powers that are meant to make the system easier for the organisation. There is no way that a 100ft mast on top of an embankment that is 25m on one side would be granted planning permission. A small percentage of PDR should be removed. We have no rights or protection: there is nothing to prevent Network Rail from erecting such masts. Network Rail would probably get planning permission for 90 per cent of their projects, but we are in the category of the remaining 10 per cent.

Mike Watson: I am interested in some of the points that you made. I also want to consider a matter that you mentioned in the additional information that you supplied to the committee. You say that 2,000 masts are to be erected in the UK, of which 200 will be in Scotland, and you say:

"The system is currently being piloted in Strathclyde".

Is that still the case? Has the system gone beyond the pilot stage?

William Galloway: It is still a pilot. Masts are going up throughout the UK, but the pilot scheme for—

Mike Watson: The pilot scheme for Scotland is in Strathclyde, so masts are not currently being erected anywhere else in Scotland.

William Galloway: That is correct.

Mike Watson: Your submission describes the GSM-R system as:

"a European radio telecommunications standard which is being adopted by rail infrastructure companies to comply with Council Directive 96/48/EC."

Does that mean that similar systems are being used throughout the European Union?

William Galloway: They are being used in 32 countries.

Mike Watson: So the system is being used beyond the EU.

Ken McInnes (Parents and Residents against Masts): We are not sure whether the systems elsewhere are being delivered by 100ft masts. There are other ways of delivering the system, such as by underground cable or—dare I say—by satellite, or via smaller masts. That is the key issue.

Mike Watson: That is helpful, because my next question is whether you have made contact with campaign groups in the UK or other European countries. You could exert pressure at European level by linking with other organisations.

Ken McInnes: We have links with groups in the UK, but not with groups elsewhere in the EU.

Mike Watson: The GSM-R masts are 29m high. I understand that mobile telephone masts that are less than 15m high do not require planning permission, which explains why some of them are just under 15m high. The GSM-R masts are twice the height of mobile telephone masts.

Ken McInnes: I might have to stand corrected on this matter, but I think that I am right in saying that, even if Vodafone wanted to pay rent to put an antenna on the Scottish Parliament building, it would still need planning consent. The 15m issue is either historic or misleading; I think that any commercial mobile or phone mast of any size requires planning consent.

Mike Watson: Does Parents and Residents against Masts campaign against telephone masts as well?

Ken McInnes: We have not done so yet, but we might start. *[Laughter.]* We needed an identity, so we threw a lot of names around and came up with that one. After all, we were prompted into action because someone had built a 100ft mast right next to our houses. It has since struck me that PRAM might not have been the smartest name that we could have chosen.

Mike Watson: I suggest that the name is quite smart, because it would enable you to campaign on other issues without having to change anything.

Ken McInnes: I think that we have got enough on our plate.

Mike Watson: Have all the Network Rail masts that you are aware of, including any outside Scotland, been constructed on its own property? Have any masts been established on other property?

Ken McInnes: Yes. We are aware of a mast at Douglas Park golf course in Milngavie on the north side of Glasgow. Presumably, Network Rail has leased ground from the golf club, but that is only hearsay. The vast majority of masts appear to be right next to the railway tracks.

Mike Watson: Yes, Network Rail would have a lot of ground of its own. I just wondered whether different regulations would apply if it were trying to establish masts on other people's land.

Ken McInnes: I think that permitted development rights would not apply in that case. I would assume that, at that point, the organisation would be required to submit a planning application.

Mike Watson: Do you know whether Network Rail submitted an application for the mast on the golf course?

Ken McInnes: To be honest, I do not know that, but I will try to find out.

Jackie Baillie: It might be helpful if I point out that planning does not take any notice of land ownership. Network Rail might have required planning permission in that context, but no doubt someone will write in and tell us.

The Convener: I think that we can find that out.

John Scott: I congratulate Mark Mulholland and the other members of PRAM on submitting the petition. I offer apologies on behalf of my colleague Bill Aitken, who would have been here today if he had not been convening another committee. Bill Aitken has made me aware of the problem by showing me photographs of the masts and I agree that they are an abomination.

Mike Watson drew from you the fact that this is the start of a Scotland-wide problem. At the moment, it is a problem in the Glasgow area, which after London is the biggest area of such activity in Britain.

You mentioned the anguish of the residents in your communities, but we also have to remember the anguish of the bereaved. After all, these masts are going up because of past rail disasters. That said, I am very much persuaded by your argument that planning permission should be sought and I am convinced that that balance needs to be struck. I am inclined to agree with Mr Galloway's view that 10 per cent of the erections are unreasonably sited. Do you agree that a balance needs to be struck on this matter?

Mark Mulholland: I agree with that 100 per cent. We have looked at many sites and masts and, to be honest, I believe that 90 per cent of them are in ideal locations. However, we are not happy with the 10 per cent of masts that look absolutely appalling.

At the very start, I mentioned that we should put safety first. We agree that the masts have to be erected for safety reasons, but we think that Network Rail should try harder and not simply put them up in the most convenient location simply to allow its workers, for example, to jump over a wall

and get to them. The requirement to seek planning permission would at least allow local authorities to consider the siting of the masts, sit down with Network Rail and make recommendations.

John Scott: From your investigations, are you aware of any potential for what might be described as mast minimisation? If planning permission were required, that might encourage Network Rail to find other engineering solutions that would deliver the same result without having such an intrusive effect on the visual amenity. Do you know whether that is possible from a technical point of view?

Ken McInnes: Yes, it is. We are not engineers or telecoms experts, but we have done a lot of reading on the subject and it seems that there are other systems that could work. I suspect that the answer is that, for Network Rail, building GSM-R masts is the easy solution. The examples in Jackie Baillie's constituency and in Finnieston and Burnside are appalling. I suspect that all MSPs will face the problem over coming years, because the system is being rolled out. We are not talking about a wee Glasgow problem; all members will come across it at some point. Network Rail's plans to erect masts in residential areas should be made subject to planning consent and it should perhaps even be asked to redesign the masts. The scheme is only a pilot and my feeling is that Network Rail is wrong—the masts do not work in residential areas, because they stand out. There are two opportunities to address that.

You mentioned safety. I concur—safety is paramount. It is a while since I read the Cullen report, which was produced after the Ladbroke Grove train crash, but I think that I am right in saying that in that case there was a communication system on board the train; it just was not working. We can have all the systems that we want, but they do not guarantee safety. That said, we are here principally to ask about the planning side. Masts might be the most cost-effective solution for the taxpayer, but there has to be some control so that similar communities throughout Scotland are not decimated in the coming years. Surely there must be some check.

John Scott: I agree. Thank you for the moderate way in which you have presented your arguments.

Ms White: There is always a great danger when any organisation—especially Network Rail—is not accountable. That has been the case recently, not just with the masts, but in other situations.

You mentioned that you had talks with the local authority and that you discovered that it had been sent a memo in 2003. Although Network Rail did not inform anyone in the area that masts were to be erected, it wrote to the council, but the council did not reply. Will you clarify when Network Rail wrote to the council?

William Galloway: On 1 April 2003. The council must have thought that it was an April fool joke.

Ken McInnes: We understand that a pack was sent to South Lanarkshire Council, so we presume that all other councils received it, too. Our knowledge is mainly about South Lanarkshire Council. Like many other councils, it forgot to respond. At the moment, there is a dispute about whether reminders were sent. Our council says that no reminders were sent, but Network Rail says that that is not true. Frankly, that is an administrative issue.

Ms White: Before we write to anyone, I want to find out what the council said in its reply to Network Rail and whether it thought that Network Rail should have to get planning permission.

Ken McInnes: At the time, the council did not reply. The subsequent response came from chief executive level at South Lanarkshire Council. A summary of its position is that it forgot to respond, but that there was nothing it could have done anyway.

Ms White: Are you referring to the meeting that you had with the chief executive?

Ken McInnes: Yes—and to various letters.

Ms White: I am in favour of democracy and having a third-party right of appeal, but we are not going down that road yet. One of the witnesses spoke about a two-pronged approach. We are talking about a pilot scheme that people are unhappy about. It should be necessary to obtain planning permission to build the masts. Given that the scheme is not working, I would have assumed that the permitted development rights could be withdrawn. Can we get that information? It might be helpful to know that if we decide that we want to write to Network Rail.

Ken McInnes: It depends on which side of the fence the system is not working. One would hope that that might be possible, but I am sure that Network Rail will think that the system is working perfectly well.

Ms White: You spoke about alternatives to the masts, such as cables. I think that you said that you had corresponded with an organisation down south on that. Have masts been used exclusively there? Have cables been used anywhere?

William Galloway: The west coast line is the only other place where the masts have been used. There are more than 188 of them on the west coast line that were meant to be used in some other new system. Although some of them have been up for two or three years, they have not been switched on yet. The masts in Strathclyde will be switched on, but the 200 or so that have already been erected on the west coast line will not be switched on.

12:00

The Convener: The committee is joined by the local MSP, Janis Hughes, and the Glasgow list MSP, Robert Brown. They have an interest in this matter because of the location that is being talked about by the petitioners. Do you wish to make any comments in respect of that?

Janis Hughes (Glasgow Rutherglen) (Lab): Yes, thank you. I am here to support the petition that has been submitted by PRAM. I have worked with the petitioners for some time, since a mast appeared virtually overnight. Rosie Kane mentioned vegetation being cut down in Strathbungo. That coincided with vegetation being cut down on the railway embankment that Mr McInnes talked about, which meant that the mast has even more visual impact than it would have had.

As the committee has heard, there is a programme to roll out 2,500 of these masts nationwide, starting with the pilot project of about 40 masts in Strathclyde. Several of those masts are already up and have caused concerns in various communities, as they will do in the future. The difficulty is that Network Rail, with which I have been in discussion from the outset, has not learnt lessons. Its communication strategy has not worked, and it has not learned from the impact of the mast in Burnside and people's experiences there. Other people have woken up—as my constituents did—to find masts near to their properties, having been given absolutely no prior warning. That is why we are here today.

It is important to remember that the petition concerns the planning issue only with regard to the masts—it is concerned not with Network Rail's general permitted development rights, but with its development rights in respect of the masts. As has been discussed, GSM-R masts are only one way of providing the links that are vital to ensure rail safety in the future. There are other ways of doing that, but I understand that Network Rail has chosen the masts for its pilot project because the other ways are more expensive and labour intensive. It may be that a mixture of masts and other methods could be considered, especially for areas in which the visual impact of masts would be of particular concern because the masts would be as close to residential areas as the mast in Burnside is.

There are many issues to bear in mind, but it is important to reiterate the fact that the petition is concerned with permitted development rights only in respect of the masts. I urge the committee to look at the pictures that it has been sent. The masts are very close to properties, and the pictures will enable members to understand the visual impact that they have when they can be seen from people's windows.

Robert Brown (Glasgow) (LD): I agree with everything that has been said by Janis Hughes and the petitioners. The issue is of interest to me not only because of my constituency interest, but because the mast is fairly close to my house. I, too, live in Burnside. The mast is not visible from my house—it does not bother me in that respect—but the structure dominates the view of the locality from a series of directions and makes a considerable difference to the features of the landscape.

The important issue is planning. There are several potential ways of doing the same thing. Janis Hughes and I, along with the petitioners, have had discussions with the Network Rail people about the possibility of erecting smaller masts and about other ways of tackling the problem, although there are expense implications and questions about whether the masts could be sited in other locations.

What has struck me most is the unfair balance of power. Network Rail has the legalities on its side and does not need to bother too much about the views of local communities. It gives the impression—if I can put it this strongly—of going through a public relations exercise on this, under some pressure from local representatives. It was difficult to get representatives of Network Rail out to meetings, and there were problems in getting them to respond to things. It has been difficult to get information out of Network Rail on matters such as the location of the masts. The big deficiency lies in the fact that, legally speaking, Network Rail does not need to bother, which gives rise to an attitude problem, and that underlies the difficulties that the petitioners have experienced as they have tried to do something about the situation.

Had there been early consultation and proper contact between Network Rail, which otherwise would have been the applicant, and the local community so as to work out a satisfactory solution in a less residential location, that would have done the trick. Unfortunately, such an opportunity was not offered. The issue involving the local council might be linked to that, but the council is essentially incidental to the whole thing. The result is that people feel frustrated, dissatisfied and annoyed with the deficiencies of the system—legitimately so, I think. I do not think that anybody has the slightest objection to people changing a traffic signal on the railway line or something minor of that sort—such things happen all the time and nobody makes the slightest objection. A 96ft mast, in anybody's view, is a different kettle of fish.

My strong view is that, although this would not be an issue in many instances, it would be appropriate and helpful to the whole procedure if

Network Rail were required to go through a planning procedure of some sort to identify issues with the local community and, practically speaking, if it had some pressure on it to do something to satisfy legitimate local demands. I am in no doubt that the local demands that have been put forward to members this morning—in a modest and reasonable fashion, if I may say so—are legitimate. I thank the committee for giving me the opportunity to say a few words on the subject.

William Galloway: We have a 96ft, or 28m to 29m, mast next to us. Some masts, in hillier areas, will be 150ft tall. The point is that there could have been a 300ft mast outside my door, and I would be in the same position now. There are no limitations on what may be built, and that needs to be sorted.

The Convener: I invite suggestions on how we deal with the petition.

Helen Eadie: I have listened with a great deal of interest, and a number of issues have emerged from this morning's discussion. I was very much persuaded by one of the points that Janis Hughes made, which chimed with my own experience. Despite my interest in rail matters, I do not recall Network Rail representatives having ever come to us, giving us an early warning that such plans were in the offing. That is symptomatic of the approach that has been taken over many years. Network Rail always seems to be firefighting; it never seems to take advance action or to hold discussions with the community at large or with us, as elected representatives. Network Rail ought to have been sharing its plans with us.

I am alarmed to learn that, over the time ahead, we will be confronted by the same issues in my area; that is why I will whole-heartedly support the petition, the petitioners and the MSPs who have spoken to us. I urge the committee, through the convener, to write to the Scottish Executive to get its views on the matter, as well as writing to Network Rail. In writing to Network Rail, we should emphasise how unhappy parliamentarians are about its communications strategy. Something has to be done about that. We could also write to the Office of Rail Regulation, the Office of Communications and the National Radiological Protection Board, seeking comments on all the issues that have been raised in this debate and enclosing a copy of the *Official Report*.

There is one other relevant organisation—I think that it is still in existence, and I have met its representatives in the past to discuss the roll-out of a different sort of mast in communities in my constituency, where equal concern has been expressed. The subject of masts has been a hot potato from the time of the Scottish Parliament's establishment. Janis Hughes and I were on the Transport and the Environment Committee when it examined the issue of mobile phone masts. I am

speaking about SACOT: the Scottish Advisory Committee on Telecommunications. At one point, its members were advocating that we should sit down with all the decision makers and work out a roll-out programme in advance of things happening, so that we could iron out difficulties that communities and their elected representatives might have.

I wish the petitioners well. I will keep a close eye on developments and I hope that we get answers, because that will be vital for the whole of Scotland. That is not to diminish how important it is to get the technology for the reasons that John Scott outlined, which we all acknowledge.

Jackie Baillie: I do not dissent from anything that has been said. We need to do two specific things. First, we have to get information from Network Rail on its consultation and notification process. Letters have been exchanged and there have been meetings with ministers, but we want to know what specific action it is taking and what changes in its process will ensure that people do not wake up to find a 96ft mast outside their door. Secondly, I want to know what alternative systems Network Rail has considered and why they were rejected. We should write to the Minister for Communities about permitted development rights for masts alone, given their obtrusive nature.

Mike Watson: Jackie Baillie has covered the point that I was going to make—that we should add the Executive to the list of organisations that Helen Eadie mentioned. When the issue was raised in a parliamentary question five months ago, the then Deputy Minister for Communities said that the Executive had no plans to pursue changes to the arrangements for permitted development rights. Five months on, given that the issues that we are discussing have been well aired, we should ask whether that is still the position and, if so, why.

The Convener: Are members happy for us to follow that course of action?

Janis Hughes: I have a suggestion to add on the back of Jackie Baillie's comments about asking what other arrangements have been considered. One of the issues of concern is that Network Rail has never said what alternatives it considered where a site was obviously potentially sensitive. It would be helpful if that question could be asked.

The Convener: I do not have any difficulty with that. I think members would be happy to do that.

Ms White: I do not want to add to the big list of organisations to which we are writing, but I am concerned about councils. As Janis Hughes said, surely to goodness one would think that they would have a plan marked out instead of having people say to them, "I'd like to build a mast here."

Perhaps we should write to the Convention of Scottish Local Authorities to ask about its input and what it thinks about the issue.

John Scott: Generally, I take Janis Hughes's point. We cannot ask which individual sites have been considered, but we need to find out Network Rail's policy on the issue—if indeed it has a policy. Jackie Baillie asked whether it had considered alternative systems and, if so, why they had been discarded. I suspect that we might find that there was no such consideration, but that is for Network Rail to tell us. I look forward to hearing from it.

Ken McInnes: I have a final, brief point to make. There has been a lot of discussion this morning about Network Rail's lack of administrative procedures. That is appalling, but the issue is more important. The masts are being built right now and we have to review the planning permission system. If you want to stop the masts appearing in your constituency, you need to review the planning legislation. I know that it is naïve of me to say that, because there is a lot involved, but we do not need just to ensure that people know about masts—we need to stop them. I live 25m from a 100ft tower. I have accepted that and I have to live with it, but we have to prevent other people in Scotland from having to go through that. The issue is about more than Network Rail's procedures and consultation, because, with respect, if Network Rail had told me that it was going to site a mast near my house three weeks before it did so, I would not have felt any better about it. The fact is that our area is now blighted. That is the key issue.

The Convener: Absolutely. It is certainly not naïve of you to raise the issue. You made a valid point well in your presentation. Thank you.

Jackie Baillie: The issues are not mutually exclusive. Getting Network Rail to address the problem is not a negation of what we need to do in planning terms. Had you had the opportunity to object along with your community, perhaps the council would have become alive to the issues and might have taken a slightly different view of what would be acceptable in the circumstances.

Ken McInnes: I know that 52 MSPs have signed one of the motions, so I hope that the issue can be taken up.

William Galloway: Several councils in England, such as Wigan Council, responded to the pack that they received and entered negotiations and shifted the masts from the proposed sites. When the councils respond to their mail, there can be a bit of shifting here and there. If that had happened in our case, the mast would certainly not be where it is.

The Convener: We will find out COSLA's position in that respect. We will keep you updated about the responses that we receive.

If members want a break, I will suspend the meeting for a few minutes.

12:15

Meeting suspended.

12:24

On resuming—

Scottish Parliament Standing Orders (Public Petitions) (PE803)

The Convener: Our next new petition is PE803, on the Parliament's standing orders. The petition is in the name of Hugh Sinclair on behalf of the movement for a register of freemasons and it calls on the Scottish Parliament

"to amend its Standing Orders to ensure that the Petitioner receives an official copy of the full text of the Petition stating that it has been accepted as admissible for consideration by the Committee prior to its publication on the web-site of the Committee and that such text is duly published on the web-site."

The petitioner is concerned that what he regards as the full text of his earlier petition, PE761, was not published on the Parliament's website.

The full text of a petition is the wording that is published in the *Business Bulletin*. Any other text or information that is supplied by the petitioner is treated as additional evidence and is made available to the committee prior to its consideration of the petition. However, the reference on the Parliament's website, on the "open petitions" and "closed petitions" pages, to

"link to full text of petition"

could be considered to be misleading. To avoid any further confusion, I suggest that the committee should agree that that wording should be changed to "link to any additional information". That will address the concerns, and it will be easy to make that amendment. Do members agree to that?

Members indicated agreement.

National Parks (Scotland) Act 2000 (PE805)

The Convener: Our next petition is PE805, on the National Parks (Scotland) Act 2000. The petition is by Ian Watson and Peter Brucelow and it calls on the Scottish Parliament

"to urge the Scottish Executive to urgently review the National Parks (Scotland) Bill and in particular the performance of each national park authority in meeting the four aims of a national park as defined in the Bill."

The petitioners have particular concerns about the proposals by Scottish Water to lease the trout fishing on Loch Katrine and Loch Arklet to a private company because they believe that that

will compromise the safety and quality of the water and lead to the exploitation of the surrounding area.

The National Parks (Scotland) Act 2000 created the framework for a new land management designation in Scotland. National parks have been established in the Cairngorms and in Loch Lomond and the Trossachs, which is where Loch Katrine and Loch Arklet are located. National park authorities have been established to manage the parks and they are responsible for preparing and implementing a statutory park plan and for managing the park area in relation to the park's aims. The performance of each NPA is overseen by the Executive and Audit Scotland.

Jamie McGrigor has an interest in the matter and he has joined us. I invite him to comment before the committee considers the issue.

Mr Jamie McGrigor (Highlands and Islands) (Con): I start by declaring an interest, in that I am still chairman of the Loch Awe Improvement Association, which manages the protection order on 80 miles of trout fishing in Argyll, on Loch Awe and Loch Avich. My interest in the petition relates to the element on trout fishing on Loch Katrine and Loch Arklet. The original petition argued that, after Scottish Water took over the management of Loch Katrine, there was a downgrade, with the facilities that were there before being ignored. The petitioners say that what had been managed as a considerable asset is not being properly managed by Scottish Water; in other words, what was done well by the water board is now being done badly by Scottish Water. That is a bad thing, because an asset of the national park is being downgraded. Wild trout fishing in Scotland is particularly important and it should be protected for the future. The fact that the petition has been extended to include Loch Lomond perhaps slightly dilutes the original petition, which was about trout fishing on Loch Katrine and Loch Arklet.

The Convener: For members' information, the initial petition that was presented to the Parliament was inadmissible and the wording had to be changed to ensure that the committee could consider it. The original petition asked the Parliament to take action that it could not take. What Jamie McGrigor refers to as the original petition is not what we are discussing today, which could not be considered by the committee without being amended.

Mr McGrigor: I agree with certain elements of the amended petition, in relation to matters such as personal watercraft and jet-skis, which are not compatible with what I would call the main aim of a national park, which is to be a peaceful, scenic and wild area. It is difficult to ensure that it is kept in that state if you are going to have the roar of jet-skis echoing all over the loch.

The Convener: I believe that Rosie Kane wanted to comment.

12:30

Rosie Kane: I do, if the committee will allow me to. Ian Watson and Peter Brucelow are in the gallery and they have asked me to read out a wee statement from them, which I shall then distribute to members of the committee. They start with the question, "Why do we need national parks?" They say:

"By far the most important reason for designating part of our country a National Park is to protect an area famous for its beauty, spectacular scenery and unique environment for future generations. The National Park Authority must therefore be organised to be able to resist commercial forces and the rich and powerful who will want to use these areas as a playground for their own selfish recreations."

I do not think that that is Jamie McGrigor, is it? I am sorry, Jamie. They continue:

"It is specially important to create a National Park if there are powerful forces who would try to exploit our natural heritage for profit, and by so doing destroy our unique assets."

Because Local Authorities have now a vested interest in increasing their income by allowing housing and other developments, they can no longer be trusted to defend our green belts and spectacular scenery as they did in the past. Properly constructed National Park Authorities with help from the Scottish Executive and SEPA, can meet the four aims of a National Park without destroying our natural heritage. The National Parks (Scotland) Bill, ratified on 5th July 2000, is as follows :-

1. to conserve and enhance the natural and cultural heritage of the area
2. to promote sustainable use of the natural resources of the area
3. to promote understanding and enjoyment ... of the area
4. to promote sustainable economic and social development of the area's communities."

I know that we have time issues today, and the statement does go on, but I think that members would do well to read it. Both Ian Watson and Peter Brucelow give reasonable, interesting and creative suggestions on the second page of the document. They finish by saying:

"Future generations have a right to be able to enjoy the magnificent and unique scenery and the glorious environments of our National Parks. They will be denied this legacy if our conservation minded MSPs do not make a determined effort to lay the foundations of a National Park organization which is capable of defeating relentless commercial forces and the rich and powerful who have selfish recreations which are inherently anti social and dangerous."

The final page of the document contains details of the sale of a home in Ardlui, offered at prices from £100,000. I will not be buying it, but the advertisement states that it is

"a versatile second home on the bonny banks with private jetty, adaptable accommodation, great on site local facilities and outstanding aspects south."

The gentlemen asked me to read that out and I was happy to do so. Jamie McGrigor mentioned jet-skis and other small aeroplane-type things landing on the loch and causing havoc. In light of the forthcoming European Union ambient noise directive, I believe that this is a perfect opportunity for the Parliament to take the lead and to do everything that it can in consideration of the petition by Ian Watson and Peter Brucelow.

Jackie Baillie: I would encourage anybody to move into Ardlui. It is in my constituency and it is beautiful, and I would recommend their constituency MSP to them.

That said, I think that we are in danger of conflating an issue that was particularly about Scottish Water with an issue about national parks. Although I acknowledge the difficulty of framing an admissible petition, we may be in danger of moving away from one of the main points.

I understand that the Loch Lomond and the Trossachs National Park Authority is due to publish a national park plan soon, which has been the subject of consultation. As we speak, consultation has been launched on byelaws governing the use of seaplanes, jet-skis and speedboats, to do exactly what the petitioners are looking for—to ensure that we get an appropriate balance between conservation and enjoyment of the loch. People in my constituency and elsewhere have expressed concerns that such byelaws have not been introduced quickly enough, but I am encouraged that the process is in place.

I do not want to curtail debate, but my inclination is that we should first write to Loch Lomond and the Trossachs National Park Authority to ask what actions it is taking and the timetable for them. The park authority's answer will be instructive. Our way into the issue could perhaps be to use as an example the concerns that have been expressed about the maintenance of fishing rights in the bit of Loch Katrine that seems to have prompted the petition. We should then wait until we receive a response from the park authority before we consider what other action we should take.

John Farquhar Munro: Mr McGrigor said that the lochs have not been as well managed since they were transferred from the jurisdiction of the water board to that of Scottish Water. What differences have been seen?

Mr McGrigor: From what I can gather, the water board ensured that the boats were kept in good condition, the toilets were kept clean and certain rules pertaining to fishing were enforced. However, the toilets are now not clean, the boats are in a bad state and there is a free-for-all in fishing methods.

John Farquhar Munro: I also seek clarification on the views of the Loch Lomond and the Trossachs National Park Authority, which is the governing body for most activities within the geographic area of the park. Is the board of the park authority happy about the proposal to lease activities on Loch Katrine to a third party or do we not know its views?

Mr McGrigor: What worries me about the make-up of the park board is that few of its members appear to have any conservation experience. I am not even aware that it has an officer with responsibility for fisheries within the authority. Given the number of fishing lochs in the park area, fisheries should be a number 1 concern, but that does not appear to be the case. From that point of view, it is a good thing that the petition was lodged.

Rosie Kane: For the committee's information, the park authority's board has 25 members, of which 20 were appointed by the Executive or local government; only four have a background in conservation.

Ms White: I think that Jamie McGrigor has answered my question on Scottish Water. I worry when things like that can just be hived off to a third party. What legislation do we have on that? Can we write to Scottish Water about that? Was it part and parcel of Scottish Water taking over the loch that it would be able to hive things off in that way?

Mr McGrigor: From what I can gather, the previous water board felt a responsibility towards the fishery, but Scottish Water does not appear to have the same attitude. Scottish Water is quite prepared to let somebody else manage the fishery without necessarily looking after it. The water board's attitude was that it had a responsibility to protect the asset, whereas Scottish Water's attitude seems to be, "If we just hive it off to be managed, it will be up to them to manage it in their own way."

Ms White: Scottish Water has contracted it out to a third party.

Mr McGrigor: I think that Scottish Water has abdicated responsibility for protection of the asset.

Ms White: Thank you for that clarification.

The Convener: Jackie Baillie's suggestion that we write to the authority to ask it for its view is a good starting point that might raise other issues. We will await a response before deciding whether it is necessary to take things further.

Rosie Kane: We should also contact the Scottish Environment Protection Agency and Scottish Environment LINK and its member organisations to ask them for their views. We have heard the word "moratorium" already today, but it would be nice if there could be a moratorium on all development until we hear back from them.

The Convener: The national park authority has responsibility for that. Its response will tell us its views, but I do not think that we can call for a moratorium. We will have to wait for its reply. At the moment, we do not have a great deal of information. We will have to find out more before we can consider other aspects.

John Scott: To whom are we writing? Are we writing only to the national park authority? Scottish Water has been roundly castigated and it is only fair that we give it an opportunity to reply. Scottish Natural Heritage may be able to offer a balanced view on the issue. It may well take an overview that others with vested interests would not. Could we write to Scottish Water and SNH as well?

The Convener: I do not think that there would be a problem with that in the longer term, but I go back to Jackie Baillie's point: unless we contact the national park authority, we will not know what issues we will have to consider. It may well be that we will eventually have to write to Scottish Water. However, if the NPA can give us more information, that will allow us to take more considered decisions and then ask more pertinent questions of Scottish Water. That would be better than taking a scatter-gun approach and thinking of all the people we can write to.

John Scott: I am not going to go to the wire on this one.

Rosie Kane: Will we write to the Executive?

Jackie Baillie: I share Jamie McGrigor's frustration. The initial issue was to do with Scottish Water and the leasing of trout fishing. The discussion has since expanded into wider issues. It may be that the petitioners would like us to explore those issues but we might end up going off at tangents to do so. However, the petitioners' starting point was very localised.

I suggest that we write to the national park authority to get an overview of what it is doing to protect the environment and our heritage. In the letter, we should also ask the authority whether it has concerns about the leasing of trout fishing being punted by Scottish Water. With that information, we can consider who to contact next.

Writing to the authority is really a starting point, after which we will be able to home in and focus on the issues that are the subject of the petition.

The Convener: That was the point that I was trying to make. We have been discussing this petition, but do not yet know the real issues that we will have to address. Unless we choose a starting point, we will be adopting a scatter-gun approach.

Ms White: I agreed with John Scott and I agree entirely with Jackie Baillie. However, the starting point was Scottish Water and the fishing. We seem to have lost that.

The Convener: Depending on the response from the national park authority, we will be able to determine which organisations we have questions for. We will then be able to get a wider perspective on the consequences of Scottish Water's actions.

Do members agree that we should write to the NPA to give us a base on which to hold further discussions?

Rosie Kane: The issue is also about conservation, is it not? I know that I do not fully understand the procedure, but I am not quite sure why we are not writing to more authorities and organisations at this point.

The Convener: Because we do not actually know what it is that we want to ask about.

Rosie Kane: We are talking about conservation, about the environment and about mismanagement. We are talking about a body that has been appointed partly by the Executive.

The Convener: The petition calls for a review of the bill in relation to what the NPA does. We therefore need to find out what the NPA is actually doing. What it is doing will have an impact on conservation, but we have to have a starting point. Otherwise, we would be asking people to comment when we do not know what is being affected. Until we know what is being affected, we cannot ask the pertinent questions.

I am not saying that we will not take up the issue with environmental organisations in the long run, but we will not know what to ask them until we get a reply from the NPA.

Rosie Kane: Okay.

The Convener: We will write to the NPA and await its response before taking the issue further.

Members indicated agreement.

Food Chain (Supermarkets) (PE807)

12:45

The Convener: Our final new petition is PE807, on the influence of supermarkets on the food chain. It is by James Mackie and calls on the Parliament to urge the Executive to conduct an inquiry into the influence of supermarkets on the food chain, to examine safety issues arising from the use of chemicals to extend the shelf life of products and from central purchase and distribution; and to examine the impact of supermarket trading on local economies and small producers. Before being formally lodged, the petition was hosted on the e-petitioner site, where it gathered a total of 73 signatures during the period 2 November 2004 to 3 January 2005.

Although food safety is a devolved matter, competition is reserved, and the supermarkets' influence on the food chain and local suppliers is an issue for the Office of Fair Trading. The four major supermarket chains have given statutory undertakings to comply with the supermarkets code of practice, which came into force on 17 March 2002.

In response to a parliamentary question, Ross Finnie stated:

"The Executive made representation to the Office of Fair Trading (OFT), early in 2003, to the effect that there was a very strong view from suppliers in Scotland that the Supermarket Code of Practice was not working. The representation made it clear that fear of de-listing was preventing suppliers making complaints under the code, together with concerns about lack of substantive penalties for non-compliance. The outcome of this representation ... was the OFT's announcement of an audit of the code, aimed at establishing the effectiveness of the code. The report of the audit is nearing completion and is likely to be published early in 2005. The Executive will make further representation once the outcome of the audit is known."—*[Official Report, Written Answers, 21 December 2004; S2W-12876.]*

Do members have any views on the petition?

Mike Watson: As the report of the audit is about to be published, I suggest that we delay discussion of the petition until we see what the report says and then consider what we want to do with it as a result of that.

The Convener: Are members happy to keep the petition live and bring it back in the wake of that report?

Members indicated agreement.

Mike Watson: The written answer was given in December. Do the clerks have any clearer indication of when the report is due to be published?

John Scott: That is crucial. Whether the code of practice is working is an important issue. The Parliament has been lobbied by dairy farmers—I declare an interest as a farmer, although I have no connection with the dairy farmers—who maintain that the code is not working. If the OFT is about to publish its report, I am happy to wait for what it has to say, but if the report is some months away, to be fair to the petitioners we should take more action in the meantime than just await the outcome of the review.

Mike Watson: Perhaps we could ask the clerks to find out for our next meeting what the latest expected publication date is.

The Convener: I am more than happy to do that. We will keep the petition live until we get the chance to look at it again in the wake of that information.

John Scott: So we will consider the petition at our next meeting.

The Convener: Yes, we will keep it on the agenda until we get the information.

Current Petitions

Sex Offenders (Home Office Project) (PE486)

12:47

The Convener: Agenda item 3 is consideration of current petitions, the first of which is PE486, which is by John Dick and calls on the Parliament to note the progress of a Home Office project to help sex offenders avoid re-offending, note the work of the Scottish Quakers to apply the principles of the scheme in Scotland and consider the possible application of the scheme in Scotland.

At its meeting on 29 June 2004, the committee agreed to invite the petitioner's views on the latest response from the Scottish Executive, which is dated 11 June 2004. The clerks wrote to the petitioner on 1 July 2004 and again on 9 November 2004 but have received no response. In such circumstances, we generally close the petition. Does the committee agree to do that?

Members indicated agreement.

Complementary Medicine (PE571)

The Convener: PE571, by Mrs Ethne Brown, calls on the Parliament to introduce legislation to require Health Boards in Scotland to integrate and implement within the NHS the recommendations of the National Medical Advisory Committee's 1996 report, "Complementary Medicine and the NHS".

At its meeting on 10 November 2004, the committee considered the response from the Scottish Executive and agreed to seek an indication as to whether it would be minded to encourage NHS boards to promote the use of complementary medicine. The minister's response states:

"in 2004, all UK Health Departments took part in a consultation led by the English Department of Health on the statutory regulation of the CAM disciplines of herbal medicine and acupuncture. The responses are being assessed. In communicating the outcome to the NHS in due course, it would be possible to include a general statement of the Executive's position on complementary medicine. Such a letter might also mention the patients' guide to complementary medicine which will soon be produced by the Prince of Wales' Foundation for Integrated Medicine. The Executive will be making this available in Scotland."

Do members have any views?

John Scott: I welcome the fact that the minister is prepared to issue a formal reminder that NHS boards have this power. We should also invite him, if he is so minded, to include a general statement of the Executive's position on complementary medicine.

Helen Eadie: I agree.

The Convener: We will ask the minister to get back to us.

Yorkhill Hospital (Centre of Excellence) (PE655)

The Convener: PE655, by Mr and Mrs Gill, calls on the Parliament to investigate the resource difficulties and other difficulties that are currently faced by Yorkhill hospital as a result of its status as the centre of excellence in cardiac for Scotland and to consider whether it is appropriate for the hospital to continue in that role.

At its meeting on 8 December 2004, the committee agreed to invite the Executive to comment on a response from the petitioner. The minister states in his response:

"There were 8 deaths in 2003-04, so from a purely numerical point of view the position has been better, but I am of course very much aware that each of these numbers represents a child whose death was a tragedy for the family. The underlying fact is that the Yorkhill results over several years have remained consistently at or below UK national levels."

Do members have views?

Ms White: The minister is very honest in his reply. It is sad that in some cases children die. We have pushed the petition as far as it can go and we have no option but to close it.

The Convener: Are members happy with that?

Rosie Kane: I was not on the Public Petitions Committee when the petition was considered—Carolyn Leckie was. If I am right, questions were asked then about staffing levels. I do not see a response to those questions, but I got the information only on the way here this morning, so I do not have a copy of the questions.

The Convener: You have come in at the end of the process. The petitioners gave evidence to the committee. We asked questions of the minister and the minister responded to all the questions about staffing, resources and so on. We wrote to the petitioners to ask them to comment and the response that we are looking at now is a response from the minister to other points that the petitioner raised. We are, if you like, dealing with a response to a response. The letter that is before the committee is the minister's second response, which is a response to a very specific point about the number of deaths at Yorkhill.

Rosie Kane: Okay.

The Convener: Will we close the petition, as Sandra White suggested?

Members indicated agreement.

Local Authorities and Public Agencies (Public Petitions) (PE713)

The Convener: PE713, by David Wilson, calls on the Parliament to urge the Executive to issue guidance to local authorities and public bodies to ensure that they take into consideration relevant public petitions in their respective decision-making processes.

At its meeting on 9 June 2004, the committee considered the response from the Executive and agreed to seek the views of the petitioner on its response. In his response, the petitioner

"calls on the Scottish Parliament to urge the Scottish Executive to oblige local authorities to treat Petitioners with respect and not to disparage or denigrate them for not having provided a well written well argued case in a personal individual letter. Isolating petitioners from letters of objection provides inequality, it implies the petitioner's view is a second class objection and therefore the petitioner is second class and discriminated against."

However, the Executive states in its response:

"While we fully support an open and inclusive approach and encourage local authorities and public bodies to endeavour to engage with the public, we do not consider it necessary to issue guidance in this regard."

Do members have a view? I hope that a local authority that received submissions from members of the public would treat those people with respect. A wide range of petitions come to this committee and we always try to ensure that petitioners are treated with respect; we expect local authorities to do the same. However, to force local authorities to behave in a particular way is perhaps beyond us. It is not possible to force a local authority to have a petitions committee, although it would be a good idea if they did.

Helen Eadie: I agree. The committee and the Parliament has tried to protect local government, because it is in everybody's interest to ensure that local government is protected; local authorities are the champions of local issues.

However, there is a great deal of competition between local authorities in Scotland to see which will turn out to be models of best practice in engaging and involving the public. Some authorities are better at that than are others. Among the best ways to improve the situation are the current practices of giving awards to authorities that achieve best practice and helping to publicise and promote best practice in the hope that other local authorities will copy it. As the convener said, the issue is difficult; dictating to local authorities could be counterproductive because, in the process, we could upset more people than we please. I agree with the convener that we have done all that we can do. We should accept the Executive's response and close the petition.

The Convener: Okay. Do members agree with that suggestion?

Members indicated agreement.

Scottish Public Services Ombudsman (PE745)

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

At its meeting on 10 November 2004, the committee noted the Scottish public services ombudsman's response, which stated:

"We have included some information on our recently updated website...and will be making a good deal more available through our publication scheme under the Freedom of Information Act."

The committee agreed to seek clarification about the guidance that is made available in hard copy. The committee also noted that the ombudsman had failed to address the committee's request for further details of the service standards that are to be produced in line with the commitment that was made in the SPSO's annual report for 2002-03, together with a timescale for their publication. In the response, the SPSO states:

"All material on our website and referred to in the publication scheme is available in hard copy on request. This includes the attached material explaining what standard of service complainants can expect from us and how to complain if they are dissatisfied with the service they receive."

Mike Watson: As the ombudsman's information is fairly complete, we should close the petition.

The Convener: Do members agree with that suggestion?

Members indicated agreement.

Ms White: I would be interested to know to whom people complain if they are not happy with the treatment that they receive from the ombudsman. I am joking, but I would be interested to find out if people have to complain about that to the ombudsman.

The Convener: We could have a management review.

Ms White: I will maybe look up the matter on the ombudsman's website.

Livestock Improvement Scheme (PE748)

The Convener: PE748, by Netta MacKenzie, calls on the Parliament to urge the Executive to retain the livestock improvement scheme that the

Crofters Commission administers on behalf of the Scottish Executive Environment and Rural Affairs Department.

At its meeting on 29 June 2004, the committee agreed to seek comments from the Minister for Environment and Rural Development before formally referring the petition to the Environment and Rural Development Committee for further consideration.

The Deputy Minister for Environment and Rural Development's response states:

"On 5 April 2004, Allan Wilson announced that the Livestock Improvement Schemes (LIS) were to close, and a replacement scheme, offering a new grant to fund improvement of cattle would be introduced. This change is taking place against a background of significant support for crofting amounting to around £7m per annum which will continue and is in addition to the other subsidies and grants available to farmers and crofters ... I have no current intention of reviewing the decision to close the Livestock Improvement Schemes, and to replace only the Bull Hire Scheme."

The response also sets out the reasons for the closure of the ram purchase scheme.

13:00

John Scott: I declare an interest: I am a farmer and I lobbied for the continuation of the schemes some years ago. I welcome the minister's comprehensive response. However, although the letter may quote selectively from the Scottish Agricultural College's report, it appears to miss the point. The point of the ram scheme is that crofters who have a small number of sheep can use a ram only once, because if they keep using the same ram on the same sheep, they will get inbreeding, as I am sure all members understand. It is important that a pool of rams is available to crofters so that their stock does not become inbred. The loss of the scheme is significant.

We should keep PE748 open until the bull scheme is implemented. There is also a possibility that, if the minister is determined to close the ram scheme, as it seems he is, the market could provide the service through a co-operative group of farmers coming together. Perhaps an organisation such as the Scottish Agricultural Organisation Society could organise that. There is a need for a pool of rams where there are few sheep—such as in the crofting community—so that sheep do not become in-bred. I am sorry to be so technical about it, but I know about the subject. Perhaps John Farquhar Munro has something to say about it.

John Farquhar Munro: I fully support what John Scott said. The ram scheme has been a traditional service to the farming and crofting communities in the Highlands, and the benefit was that once the farms and crofts had used the rams

and bulls during the season, the Department of Agriculture and Rural Development took them back, which relieved the farmers and crofters of responsibility for over-wintering them. They do not have facilities to maintain the stock, so they were delighted with the scheme and made good use of it. Mr Scott suggested that we should keep the petition open.

John Scott: Indeed. In my view, we should certainly pass the petition to the Environment and Rural Development Committee, but if we are trying to be helpful, we should offer practical solutions as well. If the ram scheme is withdrawn, perhaps a co-operative ram scheme could be put together with the same sort of arrangement as before, but done under market conditions.

The Convener: We have to be careful. We cannot keep the petition alive here and send it to the Environment and Rural Development Committee. I do not think that we can do any more, but John Scott is right that there is still an issue to be addressed. It would probably be for the Environment and Rural Development Committee to keep an eye on the matter. We could close the petition today, pass it to the Environment and Rural Development Committee and ask it to consider the issues that John Scott highlighted.

John Scott: I am happy with that.

Scottish Legal Aid Board (PE751)

The Convener: PE751 is on the inquiry into the procedures and practices of the Scottish Legal Aid Board. The petition is in the name of Ronald Mason and it 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 that govern eligibility for legal aid to include an automatic right for the disabled.

At its meeting on 10 November 2004, the committee agreed to ask the Scottish Legal Aid Board about the basis on which it made the claims that

"The Board has no evidence of the existence of discrimination against disabled people in the assessment of legal aid applications"

when—according to the Disability Rights Commission—the Scottish Legal Aid Board does not keep any data on such applications. In its response, SLAB states:

"It is our intention to be able to collect information on a number of small volume type of cases such as those covering disability issues. This will be possible when we introduce significantly upgraded computer systems for civil legal aid. This will allow us to track the number of applications received where disability issues are the primary areas in a case. We also think it would be useful to meet the Disability Rights Commission to discuss any particular concerns they may have about the processing of civil legal aid applications."

Do members have any comments?

Mike Watson: Some clarification is needed on some of the comments that have been made by the Scottish Legal Aid Board. Its most recent letter states:

"The information that the Board gave to the Public Petitions Committee was not, in fact, quite as specific as is reported."

It then goes on to highlight a comment that was made in its letter of 11 August, which was word for word as SLAB said. However, earlier in the same letter the board says that it

"has no evidence of the existence of discrimination against disabled people in the assessment of legal aid applications."

There is therefore a conflict between that statement and the one to which it refers later when it says:

"we are of course not complacent".

It would be useful to have those statements reconciled, although SLAB has adopted a co-operative tone on meeting the DRC and getting to the bottom of issues. Nonetheless, SLAB was categorical in the early part of its letter, so it might be useful to have clarification, because the two statements do not sit easily together.

Helen Eadie: There is another more fundamental issue to do with universal benefits of any description and whether there should always be an automatic right for disabled people in any aspect of public life. I am whole-heartedly in favour of ensuring that there is absolute equality and that we fund all equality measures as they are needed. However, inclusion of an automatic right for disabled people must be balanced, so that if people have a clear disability, they also comply on other grounds that would be expected of all SLAB claimants. There should not be universal benefits, irrespective of people's income. That is fundamental for all Scottish Legal Aid Board claimants. I would not want people who qualify for Scottish Legal Aid Board financing to suffer so that we provide an automatic right for very wealthy disabled people. We must think about that.

The Convener: It would be useful to write to the DRC to ask it for comments on the response that has been received and to find out whether it has had any discussions with SLAB, which SLAB suggested might take place. Are members happy for the committee to take up those issues and to find out more?

Members indicated agreement.

Treason Law (PE782)

The Convener: Our final current petition is PE782, by Mark Colquhoun, on the law of treason.

The petition calls on the Scottish Parliament to take a view on modernising the treason law 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 that area have never been implemented, and to make representations to the UK Parliament on the issue as appropriate.

At its meeting on 10 November 2004, the committee agreed to seek comments from the Law Commission for England and Wales on the petition. In particular, we asked for reasons why the commission's 1977 recommendations have yet to be implemented and whether the commission is still minded to support implementation of the reforms.

In its response, the Law Commission for England and Wales states:

"The principle reason why there has not been implementation of proposals to reform the law of Treason is that although we did publish Working Paper 72 in 1977, no final report was issued to the Government containing recommendations for reform"

and that

"We would not support the implementation of the proposals made in 1977 because they are now out of date."

Mike Watson: I have a question for the clerks. Has a copy of that letter been sent to Mr Colquhoun? If it has not, it might be an idea to do so and to ask for his comments. We might also ask the Executive and the Scottish Law Commission whether they have any views on the matter. I do not think that the matter is high on anybody's list of priorities; nonetheless, the law has not been changed for a considerable time.

John Scott: I agree that if the petitioner does not have a copy of the responses, they should certainly be sent to him. However, the final sentence in Steve Humphreys' response sums things up. He says:

"There is, so far as we know, no pressure from Government for us to return to this subject"

following the last review in 1977. It is one thing to have an explanation as to where we are, but quite another for the committee to be seen to be apparently seeking to review the law of treason. We would be doing that tacitly, but is that what we would want to do?

Mike Watson: I do not think that we are taking a position, and I did not suggest doing so. We can simply ask the Executive and the Scottish Law Commission for their views, as we have the views of the Law Commission for England and Wales.

John Scott: I am happy to try to find out the Scottish Law Commission's views, but I do not expect to be surprised by its response.

The Convener: Are members happy with that suggestion?

13:09

Meeting continued in private until 13:30.

Members *indicated agreement.*

The Convener: As we agreed earlier, we will go into private session to discuss items 4 and 5.

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