

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 2 March 2005

Session 2

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## PUBLIC PETITIONS COMMITTEE

### 4<sup>th</sup> 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 :

Elaine Black (Save Downhill Tennis Club Action Group)

Patrick Harvie (Glasgow) (Green)

Dr Sylvia Jackson (Stirling) (Lab)

Mr Ewan Kennedy (Save Downhill Tennis Club Action  
Group)

Pauline McNeill (Glasgow Kelvin) (Lab)

Mr Bill Mann (Western Baths Club)

Stuart Ross (Scottish Licensed Trade Association)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Paul Waterson (Scottish Licensed Trade Association)

#### CLERK TO THE COMMITTEE

Jim Johnston

#### ASSISTANT CLERK

Richard Hough

#### LOCATION

Committee Room 2



# Scottish Parliament

## Public Petitions Committee

*Wednesday 2 March 2005*

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

### New Petitions

#### Hospitality Industry (Proposed Smoking Ban) (PE819)

**The Convener (Michael McMahon):** Good morning everyone. Welcome to the committee's fourth meeting in 2005. I have received apologies from Campbell Martin and John Farquhar Munro.

Agenda item 1 is new petitions, the first of which is PE819 from Mr Paul Waterson on behalf of the Scottish Licensed Trade Association. The petition calls on the Scottish Parliament to consider and debate the implications that the proposed ban on smoking in public places will have on the hospitality industry. It asks that we consider the alternative progressive route to smoke-free provision in hospitality venues that has been suggested by the petitioner.

Paul Waterson, who is accompanied by Stuart Ross, will make a brief statement in support of his petition. He has a few minutes to make some introductory comments. We will then discuss the issues that are raised.

**Paul Waterson (Scottish Licensed Trade Association):** Good morning and thank you for inviting us to give evidence. The Scottish Licensed Trade Association's petition is on behalf of the against an outright ban group, which was formed in 2004 to promote a phased approach to tobacco restrictions in licensed premises. The group represents the 1,800 members of the SLTA, a further 1,700 public houses owned by multiple operators and all the brewers and wholesalers in Scotland. The petition has been signed by more than 3,000 licensees, which is equivalent to 60 per cent of Scottish publicans. That illustrates the depth and strength of opposition to the proposed ban.

Licensees are not the only ones who are against the provisions in the Smoking, Health and Social Care (Scotland) Bill. The Scottish Executive's opinion poll conducted during the consultation period concluded that a total ban on smoking in licensed premises was supported by only 18 per cent of those who were surveyed. That is in line with a host of other polls and data, which show that the public want smoking restrictions rather than a total ban. Indeed, the focus group summary in the Scottish Executive's evidence report states:

"There was a deeply engrained assumption that the pub is one of the few places where smoking should be freely allowed."

Recent research submitted to the Finance Committee by the Centre for Economics and Business Research Ltd, which is an independent body, has confirmed our fears that a dictatorially imposed ban on smoking will result in business closures, job losses and a significant reduction in income for our trade. In our view, both the health and financial benefits could be maximised by adopting a controlled and structured approach to curbing smoking.

Since May 2004, we have been asking the Executive to consider our phased proposals. We have proposed that smoking should be banned at the bar counter in all licensed premises and in any area where and when hot food is served. We have also proposed that licensed premises should be required to allocate 30 per cent of total floor space to a non-smoking area in year 1, 40 per cent in year 2 and 30 per cent in year 3, with the position being reviewed at the end of year 3. Unfortunately, the Executive has not engaged in discussions to pursue those recommendations, despite our extensive and vigorous participation in the consultation process.

We request the Public Petitions Committee to urge the Health Committee to amend the bill to reflect the phased approach to tobacco restrictions in licensed premises that has worked so successfully in other countries. Scotland wants a phased approach, but senior politicians are not listening. That is why we are here today.

**The Convener:** Thank you, Mr Waterson. Before we move to open debate, will you clarify whether the three-year phased introduction that you seek is for a ban or for a review?

**Paul Waterson:** Within three years, 50 per cent of the floor area in all licensed premises would be turned over to become non-smoking areas. After that time, we could review the measure to see how it has worked. If the percentage of floor area had to increase, that could happen. The whole point of our proposal is to give the licensed trade time to look at smoke-free areas within licensed premises. We could review the issue after three years.

**Stuart Ross (Scottish Licensed Trade Association):** I should clarify that, in May 2004, we asked Tom McCabe to legislate for our proposals. We had worked for four years with the Scottish Executive on the voluntary charter. Although the voluntary charter had made an impact, we realised that it had probably seen the best of its days and that legislation was necessary to create a level playing field.

Paul Waterson said in his opening remarks that, in the third year, 30 per cent of floor area would be

required to be allocated to non-smoking areas. The correct figure is 50 per cent.

**Helen Eadie (Dunfermline East) (Lab):** Good morning. Paul Waterson mentioned that other countries have adopted a phased approach. I am just back from southern Ireland, where a phased approach was obviously not adopted and the country went straight into an outright ban. Which countries was he thinking of?

**Paul Waterson:** Norway phased in its ban over about 10 years. I think that California, New Zealand and Australia have all had a phased approach. Such an approach has worked well. We should go down that road.

**Stuart Ross:** The major conference that the Executive held in Edinburgh last September heard speakers from about 10 countries around the world. As I understand it, only two countries have gone straight to an outright ban: Ireland in April last year and New Zealand in December last year. Norway adopted an outright ban in the summer of 2004 after a phasing-in period of about 12 years. At the conference, speakers from various US states and from countries around the world talked about how they had gone about introducing a ban. Ireland is the only country to have gone for an outright ban, or at least it was at that time.

**Helen Eadie:** Who did you take advice from when you organised the conference? You appear to have organised the conference to take place at a time when most MSPs would be in committee, as they are today, and could not attend. You state that only one MSP attended. Do you accept that MSPs are obliged to be in the Parliament for committees? Do you also accept that you could have taken better advice about when to hold the conference?

**Paul Waterson:** We had one MSP, but there was no interest in or response to the conference papers. We thought that the conference was so important that people would at least have replied to the invitation to say whether they were coming. Some did, but most did not. It was a very important day for us to try to redress the balance. The other conference in which we participated was the centrepiece of the Scottish Executive's consultation and it was totally biased against us. We had to fight to get any speakers on the roster.

**Helen Eadie:** I press you on the point about whom you took advice from when you were organising the conference. It strikes me that you might not have got the best advice.

**Paul Waterson:** We decided to organise the conference ourselves. It was as simple as that. We thought that holding it only 100yd along the road would have prompted more MSPs to come. One came, but we had thought that more would come. Perhaps the conference was held at the

wrong time, but we thought that there would be more interest in what we had to say.

**Stuart Ross:** I do not think that we can be expected to know the workload of all MSPs. We felt that it would be most convenient to hold the conference in the morning rather than in the afternoon when Parliament would be sitting. We also thought that holding it in a place adjacent to the Parliament building would be helpful.

**Helen Eadie:** The point that I wanted to make is that MSPs are involved in a plethora of committees and several of them might have wanted to come to the conference—I was one of those—but were unable to do so. It might be worth taking advice on such a matter in future.

**Stuart Ross:** Good point.

**Jackie Baillie (Dumbarton) (Lab):** Good morning, gentlemen. You said that you wanted to ensure that 50 per cent of a pub, for example, would be smoke free. How would you do that?

**Paul Waterson:** Under the voluntary charter, we had to set targets to achieve that proportion over a relatively short period. Our membership wanted to go with that and we managed to achieve all the targets that were set on smoke-free areas. There was no problem with getting people to do that. People in the licensed trade fully understand that the air that their customers and staff breathe must be as clean as possible and that a pub must make facilities available for everyone. Having owned a non-smoking bar, I fully understand that. People respect non-smoking areas within a pub. We believed that the targets set by the voluntary code were achievable and we achieved them.

**Stuart Ross:** We were not proposing to have segregated areas in the same way as Stewart Maxwell's bill was. We made three key points. There should be no smoking at the bar counter and no smoking at all on premises where and when food is served. However, in pubs where no food is being served, from 30 per cent to 50 per cent should be isolated for non-smoking over a three-year period.

**Jackie Baillie:** I suppose that I am envisaging many open-plan establishments where, with the best will in the world, smoke will drift. I was wondering how you would keep 50 per cent of the establishment smoke free.

**Paul Waterson:** We have commissioned research into ventilation that has proved beyond a shadow of a doubt that that drift can be stopped. The Scottish Executive appears to refuse to believe that. We have asked the Executive many times to conduct its own research to see how efficient the ventilation systems would be. The system that we researched was quite basic, but it worked well. To say that ventilation does not work

or that there can be no smoke-free areas in a pub is not true. We believe that there can be and our members would like the opportunity to show that we can achieve the target of 50 per cent within three years.

10:15

**Stuart Ross:** The University of Glamorgan research showed that the level of contaminants in the air of a well-ventilated Glasgow pub in which smoking was permitted was less than that in the air of a non-smoking pub in the centre of Glasgow that had no ventilation. That is a clear piece of research that supports our argument.

**Jackie Baillie:** I suspect—do not hold me to it—that there might be contradictory research that supports alternative points of view. However, that is not for us to determine, but for the Health Committee to consider.

**Stuart Ross:** Is the point not that the Scottish Executive should have researched that?

**Jackie Baillie:** My second question is about health benefits. You said something to which we would all sign up—that everybody wants health benefits to be maximised. Is the health benefit greater from a complete ban or a partial ban?

**Stuart Ross:** That is an interesting question, because one of the main conclusions in the research that was done by the Moffat centre at Glasgow Caledonian University was that the Executive's research, which was conducted by the University of Aberdeen, had failed to assess whether an outright ban would cause a shift in environmental tobacco smoke problems. The Executive's research shows that approximately 85 per cent of ETS problems are experienced in domestic environments, not public places. About 60 per cent of people who frequent Scottish pubs are smokers, so if the outcome of an outright ban—which the Scottish public do not want—is that a high proportion of those people simply shift their drinking habits from the pub to the home, more ETS will be experienced in the domestic environment. That has not been assessed. All along, one of our arguments has been that the research on which the bill is predicated is incomplete and, to a certain extent, irrelevant, because, as we said, there have been no outright bans in any part of the world where proper research can be conducted apart from in Ireland.

**John Scott (Ayr) (Con):** Good morning, gentlemen, and welcome to the committee. I welcome the petition, too, because it needs to be heard and a balance needs to be struck. That is being suggested elsewhere in the United Kingdom. The matter is about choice as well as public health. It is important to find the right balance. What are your projections for the cost, to

the licensed trade and in jobs, of implementing a total ban? Given the apparently thorough research that you have conducted thus far, I am sure that you have looked into those matters.

**Stuart Ross:** The CEBR in London took the consequences of the Irish ban and assigned them to Scottish licensed trade interests. It concluded that turnover in Scottish pubs is likely to drop by 7 per cent; that the volume of beer that is sold through pubs is likely to drop by 10 per cent, which is hugely significant; and that job losses would be approximately 6 per cent. The CEBR estimates that the cost to the Scottish licensed trade will be a loss of turnover of about £100 million and a loss of profit of just under £90 million, because pubs are highly operationally geared. It estimated the bill's cost to the Exchequer to be £59 million. Those were the CEBR's main conclusions.

**John Scott:** I am sorry, but I did not catch what you said about the loss of jobs.

**Stuart Ross:** The CEBR estimated the initial loss of jobs to be 2,300. However, as I am sure you appreciate, the Irish ban has not been running for a full year yet and we do not know whether the situation is transitional and will improve in year 2 of the ban or whether there will be a steady outflow from drinking in the pub to drinking at home. There has been a clear shift in Ireland from drinking in the pub to drinking at home, which is what we would expect, as so many pub-goers are smokers.

**Paul Waterson:** The licensed trade in Ireland is far more stable than that in Scotland, because no new licences for public houses have been granted there since the early 1900s, so pubs tend to be handed down from generation to generation. They are asset rich and tend to be able to ride out such situations—although they have never been in this situation before—and to find it much easier than we would to handle dips in turnover. In the Scottish licensed trade, many people rent their pubs or have loans on them. They could not stand the downturn in business, so the figures could well increase significantly.

**John Scott:** In the countries where outright bans have been phased in, what has been the effect on custom?

**Paul Waterson:** California has experienced a downturn in business and the ban there has existed for much longer. However, the ban was not introduced in stand-alone pubs until relatively recently, so not many data have been produced there. Australia introduced its ban through restaurants and is moving towards a total ban; the New Zealand situation is the same. We wait to see what happens there.

**Ms Sandra White (Glasgow) (SNP):** Good morning, gentlemen. It is important to have the

petition to allow us to discuss the matter. I believe in choice for people who wish to smoke and for those who do not want to work or sit in a smoky environment. Ireland has been mentioned a lot. As Jackie Baillie said, the evidence can go one way or t'other. I visited Ireland not long ago and was told that trade had decreased, mostly in smaller pubs, by 20 per cent. If the smoking ban was introduced, would it be easier for the larger pubs in Scotland—such as those in Glasgow—to stay open with perhaps an extension of a smoking area, such as a beer garden? Would the situation be much more difficult for smaller pubs?

**Stuart Ross:** On the sustainability of businesses, I return to what Paul Waterson said. A high proportion of pubs in Scotland is owned by national multiple companies and leased to individual licensees, who pay rent and have to buy some products through those companies. Those businesses are not as financially stable as are owner-occupied businesses with small borrowings. The situation in Scotland does not parallel that in Ireland. The risk is that many businesses here will close down.

Whether external smoking facilities can be provided is a question not of scale or the finances behind owners, but of space. External facilities for smokers' comfort are not necessarily expensive to provide; the cost can be fairly reasonable. However, many pubs in Scotland are in tenemental buildings so, because of noise and neighbour nuisance issues, no facilities for comfort can be provided to the rear of those pubs. The only option for smokers who want to prolong their visit to the pub and have a smoke is to go outside at the front of the pub, which has the repercussion of disruption to communities.

**Ms White:** I planned to ask what would happen if smoking was banned. You have answered that by saying that street disorder could result if people were put outside to drink. Would people who went outside to have a cigarette be allowed to take their drink out with them, or would that also be against the law?

**Paul Waterson:** That would depend on local circumstances. In Glasgow, people cannot stand outside and drink. Publicans would be in a difficult position: should they police the street, too? Where do our responsibilities end? Licensing hours can run to 3 o'clock in the morning. If many people were outside smoking, the situation could be difficult. Must we go out to move those people on and to take drinks from them? Implementation and enforcement would be difficult and put our members in difficult and potentially dangerous situations.

**Ms White:** Lots of pubs have smoking and non-smoking areas. As far as I can see, the ventilation in the pubs that I have been in is excellent. Would

you have any objection if the law were to be changed to the extent that there were non-smoking pubs and smoking pubs? Should people be given the choice of going to a smoking or a non-smoking pub?

**Paul Waterson:** Licence holders should also have a choice about how to run their business. If licensees want to make their pubs no-smoking pubs, we welcome that. We understand the need for change; indeed, that is the whole point of our proposal. We want to be at the forefront of any change that will happen. That said, we do not need an outright ban.

**Stuart Ross:** I work for Belhaven, which owns 270 pubs. We have tried different formats in many of our pubs, allocating separate areas to smokers and non-smokers. However, unless legislation provides some sort of minimum provision for non-smokers, things will not improve. Not many licensees will make the bold move for fear of losing competitive advantage.

**Rosie Kane (Glasgow) (SSP):** Welcome to the committee. Although I do not mean to appear hostile in my comments or questioning, I think that we have to remember the long-term benefits that a ban would bring to the national health service in Scotland and to the health of the people of Scotland.

All of us have anecdotal evidence from Ireland. I visited Dublin and Donegal and have seen how the ban works in the city and the countryside. In both instances, I saw how the ban has empowered folk to insist that visitors to their homes smoke outside the house. Indeed, I have seen that happen in my own family.

Like Jackie Baillie, I am concerned about smoke drift. Smoke does not recognise boundaries—indeed, pollution never does. People also drift, especially the bar workers who have to move in and out of smoking areas all the time. I am particularly concerned about the cumulative effect of smoking on the workers who have to be in a bar for long periods. I am not sure how you can overcome that problem.

Although I am not sure that this is the case, we heard that pubs in Ireland may have seen a 20 per cent loss in takings since the ban came into force. Surely your argument that people are now choosing to drink at home would be backed up if you had evidence that the takings of off-licences had gone up.

Finally, in the lead-up to the ban, is it possible to introduce your own phased ban in the bars that you operate or oversee, or are you doing that already?

**Stuart Ross:** That is exactly what we were doing under the voluntary charter, which has



served its purpose but run its course. A lot of the pubs that were not members of any trade association were not complying with the charter, which is why we asked Tom McCabe to introduce legislation for mandatory non-smoking areas in pubs to be phased in.

We realise the health problems and appreciate the strong argument about smoke drift. We have shown that we can counter the argument through ventilation, the impact of which has not been fully assessed as yet. You made an interesting wee comment that, in the domestic environment, people are starting to ask others to go outside if they want to smoke. Children cannot make those decisions, however. In the February issue of the *British Medical Journal*, we read that children who are exposed to ETS in the domestic environment are three times more likely to get lung cancer and smoking-related diseases later in life.

The strong displacement issue has never been assessed. Indeed, the Scottish Executive's evidence says that about 865 people die each year in Scotland from the impact of ETS and that 85 per cent of those cases result from smoking in the domestic environment. The question that has to be asked is whether the ban will shift the problem from public places to the domestic environment.

**Rosie Kane:** Yes, but the idea behind the ban is that it is about education. Although it might take a wee while, the ban allows us to say that smoking is antisocial, unacceptable and dangerous. I hope that that will mean that, ultimately, people will be more concerned about smoking in the home. As regards the purchase of alcohol, have takings gone up?

**Stuart Ross:** There has been a radical swing in beer sales in Ireland from on-trade sales—those made in pubs—to take-home consumption.

10:30

**Mike Watson (Glasgow Cathcart) (Lab):** I want to follow up on some of the things that you have said. Although I can understand the arguments that you legitimately put forward in respect of your trade, I come back to the point that health is the basic issue. John Scott said that we are talking about a question of choice, but I put it to him, indirectly, that one could make the same argument in relation to seat-belt wearing—one could say that we should give people the choice of whether to wear seat belts. We do not do that and I do not think that anyone thinks that it would be reasonable to do that.

There are health issues here. I am concerned not just about people who go into pubs for enjoyment, but about the staff. We are talking about having controlled areas. We can argue for

ever about how controlled they can be—I do not want to get into that—but how can we deal with non-smoking staff who might be putting themselves at risk? Let us say that we are talking about a non-smoker who comes from a non-smoking home. How do we protect their health?

**Paul Waterson:** It is a question of proportionality. Let us look at the figures. If we assume that 50 per cent of our staff do not smoke, out of 20,000 people 0.24 of a person a year is under threat through passive smoking. As our submission explains, that is all that the risk is. We do not believe that a total ban is proportional to the problem. We think that the figures on the risk of passive smoking have been grossly exaggerated. Allied to that is the fact that ventilation will work. We tested a relatively unsophisticated system. Again, we ask the Executive to do its own research on that. If those two factors are considered together, we do not believe that a total ban is necessary.

**Mike Watson:** You talked about the displacement of people who go to pubs. I chuckled at the idea that people will simply go home and drink. I do not know about you, but I know many men—I am being deliberately sexist—who go to the pub to get away from their house. I am being quite serious, although I see that Jackie Baillie is shocked. The idea that simply staying at home and drinking is somehow a substitute for going to the pub does not stand up. As representatives of the licensed trade, you of all people know that pubs are about more than having a drink; they are where social gatherings are held. A pub is a place to meet people; it might also be a place to play darts or to indulge in quizzes or other such things. One cannot do that by staying at home. We are not talking about a straightforward scenario in which smokers who want a drink will stay at home rather than go to the pub, because there are other reasons why people go to the pub.

**Stuart Ross:** We can only look at the evidence that is available from Ireland. That is the only country that has implemented an outright ban of the kind that the Scottish Parliament is proposing. The early statistics from Ireland show that there has been a significant switch from drinking in the pub to drinking at home. In his statement to Westminster in November, John Reid recognised that especially in more deprived communities where pubs have older clientele, people will not be prepared to come out to the pub for a drink on days when the weather is as poor as it is today if they cannot smoke in the pub. If they have to go outside to smoke, they will be more liable to catch pneumonia immediately than lung cancer in 20 years' time.

**Mike Watson:** That view is widely regarded as being fairly patronising at the very least.

**Stuart Ross:** But that is what is happening. To answer your earlier question, one of the key proposals that we put to Tom McCabe last May was that there should be no smoking at the bar counter. That would help. There are arguments about proportionality. If there was ventilation and smoking at the bar counter was prohibited, the situation would improve. We agree that that might not be perfect, but it would be proportionate.

I have been the boss of Belhaven since 1982 and we have never had a single complaint about passive smoke from any member of staff, even though we run a large number of pubs. That is the truth; there has not been one complaint. We work with the Transport and General Workers Union—we have quarterly meetings with it—but the issue has never been raised. A lot of what the big pro-health lobby says is probably right, but the issue relating to the impact in the pub versus the impact in the home following an outright ban has not been researched. That is one of our main points.

**Mike Watson:** Has any of your research dealt with the argument that, if pubs were completely smoke free, some people who do not go to pubs now would start going? What effect would that have on your overall figures?

**Stuart Ross:** That is the opportunity that presents itself. Some 70 per cent of people do not smoke, so you would imagine that they might be enticed into pubs if there was no smoking in them or there was smoking in only part of the pub. As I said, however, all that we can do is consider the statistics from Ireland, which is the only similar situation in that it has a similar culture and climate to Scotland. In Ireland, there has been a sharp decline in trade.

**Mike Watson:** It is still less than a year since the ban in Ireland came into effect.

I did not feel that you properly answered a question relating to the voluntary code that you employed for a while. Why did you stop it? I accept your point about use being patchy, but why would anybody who was operating a voluntary code stop it? Surely you agree that the main aim of what Parliament is trying to do is to improve the health of people across Scotland and that one of the factors that will contribute to that has to be a reduction in smoking in general, not just in pubs.

**Paul Waterson:** That is one of the questions we would like to hear answered. We were working closely with the Executive on the smoking charter—putting out the packs and so on—when all of a sudden everything seemed to stop. We do not know why. We were told that the voluntary programme was not working, even though we know from the figures that it was, and that we had to move on. Everything was taken out of our hands. We had been involved in all the earlier

discussions, but suddenly that all stopped. That is when we came up with our proposals, on which we wanted the Scottish Executive to legislate.

**Mike Watson:** I thought that your members had stopped the voluntary code. I take your point.

**Stuart Ross:** The document, "A Breath of Fresh Air for Scotland", which was published by the Executive when Tom McCabe was Deputy Minister for Health and Community Care, triggered the need for change. We recognise that need.

Members of the Scottish Licensed Trade Association and the Scottish Beer and Pub Association will support voluntary action, but the fact is that many publicans in Scotland are not members of any association and will eschew any industry effort to improve the situation, hence the need for legislation. The regulations have to be mandatory because too many people were ignoring the voluntary charter.

**Helen Eadie:** Given that the Health Committee, of which I am a member, has taken evidence on this subject throughout most of the last year, I suggest that we refer the petition to it. When the Health Committee went to Ireland, we visited country and city areas. We did not only visit pubs; we also spoke to the Licensed Vintners Association and a range of other agencies. Based on what I heard in Ireland, I strongly refute the job-loss figure of 20 per cent that you mentioned. However, it was clear that there were many factors involved in any job losses; for example, the high cost of beer. Ireland has the highest taxation levels on beer in Europe and there has been a major drink-driving campaign as well as the smoking ban, so such factors would have contributed to any job losses.

However, when we visited pubs in Galway and Dublin, we saw that they were absolutely packed. They coped with the issue of having designated areas through local agreements—you mentioned byelaws—whereby people could hire space on the pavement: they pay a fee of something like £125 per year for the right to smoke out in front of the building. If they want an area at the back of the building, there are canopies and other sheltered areas. A number of things have happened as a result. There is a thriving business in gazebos—if anyone wants an investment tip, mark my words: invest in gazebos, decking, and pergolas. That is the way forward and it is going to happen right across Scotland.

You talked about ventilation systems. One of the most compelling pieces of evidence that we heard from Stewart Maxwell was that it is one thing to take smoke away from any building, but carcinogens cannot be removed; no ventilation system is capable of doing that. We heard that in professional and expert evidence.

**Paul Waterson:** That is not true.

**Helen Eadie:** We are talking about thousands of deaths. The point that Rosie Kane made was absolutely right; it is about the health and safety of workers and everyone else. I hope that when your petition goes before the Health Committee, you get more sympathy than you are getting from me.

**Rosie Kane:** I have a wee supplementary question about workers. You mentioned the TGWU and said that no workers had mentioned that passive smoking is a problem. I put it to you that it is unlikely that they would. If a poor student were to raise the issue when trying to get a job in a bar, it would be like a doctor saying that he or she was scared of blood. I do not think that a worker would feel empowered enough to say to a bar owner that they have a problem with smoke and have to use an inhaler when they go home, or that their coughing has increased. I wonder about that when you say that the issue has not been raised by workers.

**Stuart Ross:** I can understand that people might be frightened for their jobs if they raised the issue directly with their supervisor or line manager, who would probably say, "Go and find another job". However, they can take the union route and have no fear of being persecuted if they make their complaint through the proper channels through the union and the personnel department at Belhaven. They are guaranteed to face no repercussions if they use those channels, so I do not accept that argument.

**Rosie Kane:** What would you do if that did not filter down to where people work? How would you remedy the problem?

**Stuart Ross:** The two parts of our proposals—no smoking at the bar and ventilation—would go a long way towards resolving employee issues.

**Paul Waterson:** There is a whole question about carcinogens. What are they? They are gases or particulates and ventilation systems cannot discriminate between one and the other. The misconception that we hear all the time is that some stay and some go, but they all behave in the same way. Again, we ask the Scottish Executive to do its own research. Those things are said so often that people start to believe them, but we know that gases and particulates all behave the same way with a relatively cheap ventilation system. Such systems work—that is the foundation stone of our argument. If we can prove that ventilation works and that the passive smoking figures are exaggerated, where is the foundation for a ban? That is why people are keen to say that ventilation does not work and to create myths about it.

**The Convener:** When we spoke to people in Ireland and New York about the smoking ban, it

struck me that if we take the date at which the ban started as year zero, there might have been a dramatic change in the number of jobs and in sales, if that is the starting point from where we do the analysis. However, when the ban came in in New York and Ireland, all that happened was that an existing trend towards people drinking at home and not going to pubs speeded up. That is anecdotal—I do not have any scientific evidence to justify it—but you might be able to answer the point, hence my question. Do you have any evidence of that and have you done any analysis of current trends in Scotland in respect of people moving away from pubs towards drinking at home?

**Stuart Ross:** The research that we did through the CEBR in London concluded that the impact of the smoking ban on the trade in Ireland was a decline of 7 per cent.

10:45

**The Convener:** I accept that, but what was the trend five years before that?

**Stuart Ross:** The centre said that the impact of the smoking ban was a 7 per cent decline.

**The Convener:** Was that on top of the existing trend?

**Stuart Ross:** As I said, one has to appreciate that that research was done in December when the only statistics that were available to the CEBR were for the summer period in Ireland.

**The Convener:** I understand that, but was that 7 per cent on top of an existing trend or was it entirely down to the ban?

**Stuart Ross:** The centre found that the 7 per cent decline was caused by the ban, so it was on top of whatever the trend was. The centre looked at a six-month summer period, but what will the impact be over 12 months? It was impossible for the centre to tell; it does not have a crystal ball.

It is also not possible to tell whether the analysis reflects a transitional or long-term situation. We have attended many different platforms to listen to experts from around the world. The most interesting platform was probably the Executive's conference in September last year. We heard from various speakers; the Australian speaker was particularly strong on how a phased approach had worked in his country and how the public had come to accept first a ban on smoking where food is served and then a ban on smoking everywhere. People in Australia have got used to the idea that their habit is antisocial, dangerous to others and have therefore, over time, come to accept the ban without damaging the fabric of their hospitality industry in any way.

**The Convener:** Do you accept that there is no incentive for licensees to implement the reduction if, as you suggest, all you seek is a phased withdrawal until there is a review? It would become a self-fulfilling prophecy that one would review the situation after three years without the effort being put in by the licensed trade to create the circumstances in which a ban would be implemented.

**Stuart Ross:** That is a very good point. When we put our proposal to Tom McCabe in May last year, we expected the Scottish Executive to ask us questions such as that and questions about how things might work. We are not dealing with an exact science, so questions should be asked about how our ideas would be implemented and enforced.

However, we have had to raise a petition that has attracted more than 3,000 signatures because nobody has come back to us to debate our proposal. When, in December, we put that point to Andy Kerr, who is now in charge of the bill, he said that the Executive did not feel that it was appropriate to respond to everyone, as though the licensed trade were only a small aspect of the situation. In essence, the proposed ban is all about the licensed trade and nobody has made those points to us. We expected our arguments to be probed, particularly those about enforcement because there will be tricky enforcement issues to deal with. However, where has the debate been? It has been only on platforms where the licensed trade has said one thing and the health lobby another. The Scottish Executive has not engaged with us directly in any way, shape or form on all the proposals that we made, hence our frustration, anger and the need for us to be here today.

**The Convener:** I will give John Scott the final question before we come to a decision about what to do with the petition.

**John Scott:** I am interested in what you said about the lack of research, particularly by the Executive. I would have thought that it would want evidence-based—[*Interruption.*] Helen Eadie is muttering at my side—that is not something that I would do to her.

**Helen Eadie:** Rubbish.

**John Scott:** Can you please substantiate what you regard as being a lack of evidence from the Executive?

**Paul Waterson:** On numerous occasions we asked Tom McCabe to commission research on ventilation if the Executive did not agree with the findings of our work, but he has steadfastly refused to do that.

**John Scott:** Why do you think that is?

**Paul Waterson:** Perhaps the Executive does not want to see the truth. I cannot answer the

question. You would have to ask the minister why he does not want to do the research—it is a good question.

**Stuart Ross:** The University of Aberdeen research is the basic document on which the bill is predicated. That research has been peer reviewed by the Glasgow Caledonian University Moffat centre and its conclusions are quite firm: we have submitted the information to both the Finance Committee and the Health Committee. The centre's conclusions are that much of the research is irrelevant in that it considers countries where partial bans or phased approaches have been used rather than an outright ban. The only outright ban has been in Ireland. It was far too early for the University of Aberdeen team to draw conclusions from Ireland, so there is no precedent on which it can base its conclusions. The Moffat centre has said that clearly—it is not the Scottish licensed trade that is saying it. The Moffat centre has no vested interest in the licensed trade's arguments, but it says that the research is incomplete and to a large extent irrelevant. That is a big worry for us.

**Paul Waterson:** The University of Aberdeen research examined hotels and restaurants but not pubs, which we find amazing.

**John Scott:** Thank you for your contributions this morning.

**The Convener:** We have a recommendation from Helen Eadie that we refer the petition to the Health Committee. Do members have other views?

**Ms White:** The petition should go to the Health Committee, because the petitioners will give evidence to it on 15 March.

I am interested in why the Executive stopped a voluntary ban. Is it within the committee's powers to write to the Executive to ask it why it stopped a voluntary ban?

**The Convener:** That is a legitimate question; if we can get an answer to that it might help the Health Committee.

**John Scott:** We should, at any rate, ask why the Executive did not support a voluntary ban.

**The Convener:** We can ask for information.

**Ms White:** Can we do that?

**The Convener:** We tend not to write to both the Executive and a committee, but this is a request for information. As it is a specific question on a point that has been raised by the petitioners, I do not think that there is any harm in asking it.

**Jackie Baillie:** Although I do not think that there is any harm in asking the question, I know that the Health Committee will be incisive in the conduct of its consultation on and consideration of the bill. Mr

Ross gave us an indication of why the voluntary ban was stopped: it was because it did not apply to all the licensed trade. I thought that he was very helpful in his evidence at that juncture.

**The Convener:** It might be useful to ask the question. The issue is whether we ask the Health Committee to ask the question or whether we ask the question, get the answer and, without bringing the matter back before this committee, refer it to the Health Committee for consideration. We could get the information, since the question has been raised.

**Rosie Kane:** What about the minister? The petitioners have said clearly that they feel that they have been abandoned by the previous minister and by the current minister, certainly in relation to the scientific evidence about ventilation. We have to examine that issue and to get it right for a number of reasons, including those that the witnesses point out, but also because if we are to introduce a ban in workplaces there needs to be ventilation for workers. We must take on board the fact that smoking is an addiction. We must have the right information and the right type of ventilation across the board. Would we go to the minister at this stage or later?

**The Convener:** If we refer the petition to the Health Committee, we could do so with the recommendation that it consider that specific question.

**John Scott:** I agree with Rosie Kane—I do not always do so, by any means.

**Rosie Kane:** I will leave now.

**John Scott:** Ventilation is one of the key issues. From my background—a long time ago—in engineering, I am well aware that it is not rocket science: it is not difficult to ventilate areas efficiently. Research should be conducted on the issue. Dare one suggest that the Health Committee may want to look at the issue specifically? That is a matter for the Health Committee, but I agree with other members that the petition should be referred to it.

**The Convener:** I make the point—for no reason other than to make it—that, as a welder to trade, I saw how ventilation could work. What always amazed me was that when we stopped welding and went to get a break away from the fumes my colleagues would light up a cigarette and I had to stand beside them. Ventilation in the workplace is effective only up to a point. Those are important issues. If we refer the petition to the Health Committee, we can do so with a specific request that that committee address the points that have been made this morning. We could write to the minister for a response and we could forward the response to the Health Committee for its consideration. Are members happy that we do that?

**Members indicated agreement.**

**The Convener:** I thank the petitioners for bringing their petition to the committee this morning.

## Trust Law (PE817)

### Planning System (Recreational Spaces) (PE821)

**The Convener:** Our next petitions are PE817, which is on trust law, and PE821, which is on planning consent. PE817, which is by Elaine Black and Ewan Kennedy, calls on the Scottish Parliament to reform the law of trust to ensure that if a trust has been set up for the benefit of a community, that community will be formally consulted by any party that seeks to change operation of the trust, and the view of each member of that community will be accountably considered before any change is made. Alongside that petition, we will consider PE821, which is by Sheena Stark. PE821 calls on the Scottish Parliament to urge the Scottish Executive to ensure that all applications for planning consent to change the usage of recreational spaces be routinely sent to the appropriate minister for consideration.

Elaine Black is here to make a brief statement to the committee in support of the petitions. She is accompanied by Bill Mann and Ewan Kennedy. Welcome to the meeting. You have a few minutes to speak to the petitions, which we will then discuss.

**Elaine Black (Save Downhill Tennis Club Action Group):** Thank you very much for inviting us. Bill Mann will say something first. I do not think that he will mind my saying that he is a veteran campaigner for sports in Scotland.

**Mr Bill Mann (Western Baths Club):** I have been involved in sport and sports clubs virtually all my life as a player, a supporter—in different ways—an administrator and an official. Over the past couple of decades, I have been an active campaigner with others on behalf of amateur sports clubs, as has just been mentioned. We have had some success in obtaining generous non-domestic rates relief for our clubs and in forcing HM Customs and Excise to admit that it was acting illegally in charging VAT on club subscriptions—payments were backdated seven years. Currently, I am in correspondence with the Chancellor of the Exchequer; I am trying to convince him to extend the tax benefits that he introduced three years ago that are given to a new category of amateur sports clubs—community amateur sports clubs, or CASCs.

Our amateur sports clubs are an important part of this country's fabric. Without them, the Scottish

Executive and local authorities would require to provide facilities at enormous expense. They are an asset to the communities in which they are situated and they keep our children off the streets and out of too much mischief making. They help to keep children fit and not obese, which I know is a great concern for all committee members. Everything should be done to preserve amateur sports clubs for the sake of the clubs and for children.

Without non-domestic rates and VAT relief, many clubs would have closed years ago. However, there is now another threat to the existence of some clubs. Many sports clubs are situated in prime sites that are attractive to property developers, who are targeting those clubs and offering vast sums for their valuable land. I have no objection to amateur sports clubs selling their land under certain circumstances; for example, if all the proceeds of the sale are used to create improved facilities or to improve the remaining existing facilities.

However, I object to current members of clubs who are only birds of passage and should regard themselves as trustees for future generations selling their clubs' assets and pocketing the proceeds. I hope that committee members object to that, too. Many clubs were established many moons ago by philanthropic individuals who gave their land for nothing or next to nothing and who developed facilities without any thought of financial gain, but times have—sadly—changed. Nowadays, greedy and selfish people who have put little or nothing into their clubs but just happen to be members at a given time are selling their clubs for personal gain. That is reprehensible and immoral and must be stopped.

Elaine Black, who is the secretary of the Dowanhill residents association, will tell the committee about one deplorable example.

**Elaine Black:** I will cite a classic case of what is happening in Scotland. I live 40m from Dowanhill lawn tennis club, which is in the west end of Glasgow. I have been a member of sports clubs all my life and I have two children who play tennis to a high standard. It is a great sadness that we cannot play tennis as a family at our home club.

We believe that about five years ago, Dowanhill lawn tennis club and the bowling club opposite—one of the prettiest in Glasgow—were approached by a developer who was on a fishing trip for prime land. A year later, the tennis club closed its full membership in order to counter carpetbaggers. Members have been led to believe that the land that club trustees bought in 1950 for £250 is now worth £6 million and that each full member is in line for a £100,000 windfall.

11:00

There are currently 57 members at Dowanhill, compared with 200 members 10 years ago. In response to a recent Radio Scotland programme in which Bill Mann appeared, the club claimed that there was no demand for tennis in the area and that the membership was aging. That situation has clearly been artificially engendered. The Dowanhill courts are fully occupied three times a week by students from the University of Glasgow who want to continue playing there because they are the only courts that are close enough to the university for them to be able to play. The courts are also used—or have been in the past—by members of Western tennis club, which would like to continue using them for its overflow because it is a highly successful club. The Western baths club wrote in 2002 and 2003 requesting use of the Dowanhill courts for its membership, but was refused. In 2004, when the Dowanhill club was put on the market, the Western baths club offered to buy it but received no response.

When I moved into Dowanhill and applied to join the club, a letter arrived on Glasgow fair Saturday, just as I was going on holiday, inviting me for an interview that Tuesday to consider whether I was suitable for temporary membership of the club—in other words, membership with no voting rights. It was impossible to attend that interview and, with no forwarding address, impossible to reply to the letter. That is an example of the kind of tactics that clubs can employ to enforce failing membership.

As anyone who is involved in sport knows, clubs go through cycles of success and mediocrity as the old order fades and new blood comes in. If developers approach clubs during transitional periods, the clubs can easily be encouraged to fail. Make no mistake, if the money that was accrued by the sale of Dowanhill tennis club was going back into tennis locally and not into members' pockets, the site would not be on the market today.

How can we save Dowanhill tennis club? As a community, we have been unbelievably fortunate to have among our number David Walker, who is a former regius professor of law at the University of Glasgow; Sheena Stark, who is an advocate; Ewan Kennedy, who is a solicitor; and one full member of the club who is bravely willing to put his name to any legal action. Even with their input, we are battling the odds. We will have to go the sheriff court to obtain information on various club constitutions, which we suspect have been altered and perhaps even lost. We will have to raise £15,000 to force the club to judicial review and we run the risk of going up against a wealthy developer.

We are considering doing that only because of the confidence that we have in the people whom I

have mentioned. How many other communities will be that lucky? That is why Dowanhill residents back the petitions. Something must be done to cut the link between the out-of-date laws, rules and regulations that govern small amateur sports clubs and the greed of today's society, which allows people who are only passing through and have contributed little apart from their subscriptions to make a private profit from the destruction of badly needed sports facilities that can play a major part in our children's future health and well-being.

**Mr Ewan Kennedy (Save Dowanhill Tennis Club Action Group):** I have lived all my life in the west end of Glasgow and I work as a solicitor with my own firm in the city centre. A year ago, I set up the Glasgow green space trust to campaign to save sports grounds from being lost to the community. In the city of Glasgow, there are about 800 small clubs, which give opportunities for recreation and relaxation.

In the case notes, we have given two examples of sites that are under threat, but we know of many others. In the west end, people are vigilant and there are lots of professional skills on hand, but it is obvious that that is not always so. In our two case studies, the local residents were lucky to find out in advance that clubs wanted to sell the sites. Usually, the matter has advanced to the planning stage before the community gets to know about it.

National planning policy guidelines strongly support the preservation of urban open space, and sites that are dedicated to that purpose enjoy protection under the major cities' structure plans. The problem is that the pickings from such level, unpolluted sites in residential areas encourage developers to hire the skills that are needed to get through the guidelines.

The cases that we have presented are blatant examples of attempts to make a planning case. As an aside, that planning case is encouraged by the policies in some cities whereby a promise that some of the proceeds will go to sports facilities or clubs, sometimes miles away, is sufficient to obtain planning consent.

Accordingly, PE821, which I regard as our primary petition although it appears second on the agenda, calls on the Scottish Parliament to urge the Scottish Executive to ensure that planning applications are called in for consideration in all such cases. In a case where a club genuinely needs the cash to survive, we suggest that it can easily give an undertaking to use the sale proceeds for the purpose of the sport. Consent was given recently on that basis at Woodend in Glasgow and we made a deliberate decision not to object.

Our other petition, PE817, attempts to address the legal aspect. We are not asking you to change

the substance of the law in any way. The legal structures of clubs are so diverse that no single change would help. We seek to force all clubs that claim to be in difficulties to consult openly. In virtually every case, club land was purchased by public subscription or donated by well-meaning individuals for the public good. It was rarely contemplated that future generations would be greedy.

Dowanhill is an example of a case in which there are legal protections. The site was conveyed into trust for the purpose of promoting tennis in the area and it was expressly declared in the deeds that no individual would ever take a personal profit. That sounds pretty watertight, but the club quietly purported to change its rules a couple of years ago to cancel that provision. When we complain, we are described as carpetbaggers. We have been advised that what the club has done amounts to an actionable breach of trust. It also seems, on good case authority, that such action can be taken by non-members as well as by disaffected members. You have heard that one disaffected member is backing us, but obviously that requires public spirit and money.

Because of the diversity of club structures we cannot suggest a single solution that will fit all cases. The common thread is that the assets, which are the legacy of previous generations, belong morally and often legally to the community. The forcing of openness, by way of public consultation, will have two benefits. First, it will allow the local community to rally round with support and prevent fraudulent cases from being made to the planners. Secondly, it will help to expose breaches of legal trust when they occur and it will enable concerned people to take the necessary action.

**The Convener:** I have a couple of points to make before we discuss the petitions. First, I hope that members will accept my apologies. In about 10 minutes I will have to leave to go and do something else. John Scott will take over for about 25 to 30 minutes until I return. Secondly, PE817 and PE821 are two distinct petitions. Although they both relate specifically to Dowanhill tennis club, PE817 is on trust law and PE821 is on planning consent, and we must consider them separately.

I remind members that although the petitioner said that PE821 is the most important petition, it is about the fifth such petition that we have heard in as many months. As far as the committee is concerned, it could have been dealt with in the same way as those other petitions—I put that on the record. The petitioners were extended an invitation to come to the meeting this morning because the committee has never examined trust law. From the Public Petitions Committee's

perspective, it is PE817 that is unique and that is the petition in which we have an interest. However, the committee will consider both petitions and arrive at two separate conclusions on them. Members can now ask questions on either petition or on both petitions.

**Mr Kennedy:** I should say that we deliberately decided to submit two petitions to enable the committee to have the maximum possible flexibility in dealing with the problem.

**John Scott:** Have the petitioners asked groups such as sportscotland or the National Playing Fields Association to champion their views?

**Mr Kennedy:** Yes. We had a fantastic response from the National Playing Fields Association, which is backing us enormously. In fact, it asked me to attend its conference next Friday, at which Mike Watson will, I believe, be one of the speakers. Thus far, we have been relatively unsuccessful in recruiting support from sportscotland, but we have lobbied it vigorously.

**Elaine Black:** Local representatives of Tennis Scotland have given verbal support to the concept that the constitutions of member clubs should state that the club cannot be sold for profit. However, that could be only a voluntary arrangement.

**John Scott:** Did you also contact organisations such as the Lawn Tennis Association and the Scottish Bowling Association?

**Elaine Black:** The west of Scotland Tennis Scotland representative has attended several of our meetings and has been very supportive. There is now some awareness of the issue.

**Ms White:** I should probably declare an interest, in that I have signed the petition, am a member of the bowling club and know some of the petitioners very well.

I will deal with the two petitions separately. Given that the Communities Committee is currently considering the Charities and Trustee Investment (Scotland) Bill, it might be a good idea for us to concentrate on the issue of trust law that is highlighted in the first petition. Ewan Kennedy said that the rules and regulations for the tennis clubs that he highlighted had been changed in accordance with trust law. That is where we jump to the second petition. Is there any urgency in respect of the timescale for the second petition and the tennis clubs to which it relates?

**Mr Kennedy:** I stress that we have highlighted the two clubs to illustrate the problem. Although we are determined to use all our ingenuity and all the funds that we can raise to fight both cases locally, we have lodged the petition not to save those particular clubs but to highlight a national situation.

The situation for both clubs is desperately urgent. In fact, the fate of the two clubs has become inextricably linked. As we say in the case notes, the property developer that has apparently made a conditional contract to buy Dowanhill tennis club has offered to bankroll the Partickhill club to make a planning case. Therefore, the two clubs have been put in the same situation since we started our separate campaigns.

The matter is urgent, but we lodged the petition because it identifies what is a national, rather than a purely local issue.

**Ms White:** John Scott has already mentioned other bodies such as sportscotland. The second petition is urgent, but the petition on trust law applies to all types of sports clubs throughout the country that face similar problems. Obviously, we take heart from what has happened with Ayrshire racecourse. Have you suggested to sportscotland and the National Playing Fields Association that they should lobby Glasgow City Council, which will ultimately need to grant planning permission? Have you had any word back from Glasgow City Council?

**Elaine Black:** We have had informal indications from the council that it might not look favourably on the application for the Dowanhill club. However, the trouble is that the club is dying and it may be almost dead by the time that the application reaches the planning stage. Once a club has been approached by a developer, it is extremely hard to pull back the situation. In the long term, if the planning application were called in, it would encourage everyone to view such clubs as community assets that are not for sale. However, in the short term, although the calling in of those applications would be good news, it would still come rather late for the two clubs.

**Mr Mann:** I understand that no developer has actually spoken to Glasgow City Council's planning department about the issue in the past 12 months. That may be something to do with our campaign. Perhaps developers are keeping quiet for the time being.

**Elaine Black:** From the community point of view, if a development gets as far as the planning application stage, support for legal action disappears. Once a developer arrives formally on the scene, people are terrified of taking an action to court. If we are to try and stop the development, our community has quite a tight timescale in which to do so.

11:15

**Mr Mann:** John Scott mentioned sportscotland. Outwith the action that we have taken in submitting the petition, we think that we should ask sportscotland, the lottery or any other body



that makes grants to clubs to force clubs to change their rules so that the proceeds of a sale cannot be distributed to members. There is a precedent for that. Earlier, I mentioned the community amateur sports clubs, which have had to change their constitutions in order to get certain tax relief. So far, about 100 CASCs in Scotland have done so.

I mentioned earlier my involvement in the campaign to save clubs from paying rates. As a result of the campaign, no club in Scotland without a bar pays a halfpenny in rates and most of the others get very good rebates. I find it hard to believe that I am saying these words, but those rates rebates should be withdrawn from clubs that are not prepared to change their rules in respect of selling their grounds. I think that most clubs would be prepared to do so, as the members of most clubs do not anticipate such sales. If the rules were irrevocably changed, clubs that left open the option of selling would be stopped from doing so in 20, 30 or 40 years time. As I said, when the Chancellor made the CASCs change their rules in order to get tax benefits, a precedent was set.

**John Scott:** Who then owns the clubs?

**Mr Mann:** A solicitor would be able to tell you that, but I think that it is correct to say that the members do not own their clubs.

**Mr Kennedy:** The traditional set-up of the clubs is that the assets are legally owned by trustees, which means that the assets are held in trusts that contain purposes. As I said in my opening statement, the problem stems from the fact that the people who originally endowed these clubs did not think that future generations would be so greedy.

We gave the committee two illustrations: Partickhill and Dowanhill. Partickhill, which was set up in 1905 and celebrates its centenary this year, has no trust purposes that we could find. Dowanhill was set up in 1950, by which time people were perhaps more cynical. We have therefore found positive and negative trust purposes: the positive being to support the playing of tennis in Dowanhill and the negative to prohibit personal benefit to any member.

Legally, the concept of trusts in Scotland is quite complicated. A trust has a body of trustees—in some institutions, a corporation like the Bank of Scotland might be a trustee—and it is the body that holds the legal title. The trustees would be in breach of trust if they were to allow a sell-off. However, if the sell-off happens under cover, because no one tells anyone what is going on, the community loses out.

With the help of our professor friend, we identified historical precedents. For example, we have found that in 1825, a fund was endowed to

supply a school for poor children—I think in Newton Stewart—called the ragged school. The trustees decided not to bother spending the money on that purpose, but the parents of the ragged children got their act together, went to the Court of Session and successfully forced the trustees to spend the money on the ragged school.

If our ancestors were able to get their act together in that way, without the benefit of legal aid or whatever, we should be able to do so too. People have to know what is going on, however. Although the subject is complicated, given the appropriate circumstances, something similar to what was done by the parents of the ragged children could be done today. Dowanhill is a classic case of such circumstances.

**Mike Watson:** I am moved by the anecdote about the ragged school. “The Ragged Trousered Philanthropists” was one of the early influences on my life.

I am interested in the issues that have emerged from your opening statements. In particular, Mr Kennedy said that the purpose of Dowanhill tennis club was to promote tennis in the Dowanhill area of Glasgow. Is that mentioned in the trust document? You refer in the paperwork that you have given us to various letters of refusal to applications to join the tennis club over a period of years. That cannot be squared with the promotion of tennis in the area. Does the trust document have anything to say on that? Does the refusal to accept applications undermine the basis on which the club was formed?

**Mr Kennedy:** Yes, we believe that there has been a breach of trust. We have great difficulty in getting information, but someone kindly posted us a copy of the constitution. Then, a couple of years ago, we got hold of a very strange little document that purported to be an amendment to the constitution. We think that that amendment was itself unconstitutional, because it abolished the provision that no one would take a personal benefit.

We believe that we have an authentic copy of the original constitution, and we think that, in denying people who are genuinely interested in playing tennis in that clearly defined geographical area, the club is in breach of trust. We have been so advised by two separate learned counsel—one of them a professor friend and the other a practising counsel.

The difficulty with all such matters is how ordinary people can get their act together to mobilise and how they can get information. It has occurred to me that, under the Freedom of Information (Scotland) Act 2002, Scottish ministers might consider designating certain clubs. That

would not apply to the David Lloyd sort of proprietary club, but to traditional clubs. Scottish ministers could designate such clubs as public bodies. I do not know, but I believe that a public body does not have to be owned by the taxpayer but can be in the nature of a utility or, possibly, a public club.

**Mike Watson:** I am not particularly seeking to resolve the Dowanhill and Partickhill cases, but they helpfully illustrate other problems. In my constituency, a similar situation has arisen with a bowling club. Similar arguments are being used—that no one is really interested in bowling, that numbers are falling, that the membership is elderly, that there are other clubs in the vicinity and that this one might as well be closed. I am sure that you are being told similar stories about tennis facilities in the west end of Glasgow. However, it is a fact that sporting facilities exist that some members want to retain.

I may not have quite grasped Ms Black's point that Dowanhill tennis club may go out of existence. I am not clear how that could happen. Does the trust document allow members to collapse the club, say that it no longer exists, and then spread the club's resources among the members? Is that what you meant when you said that the club could be lost?

**Elaine Black:** You have to remember that many members of clubs know nothing about trust law so they will not have realised that they might be breaking it. Therefore, when a club folds and is sold, that is it and nobody knows anything more about it.

When clubs close their membership, they are really constructing a planning argument. When the issue comes to the planning committee in Glasgow City Council, people can say, "This is our membership. We are dying and don't have any grounds to carry on as a club." That, in effect, is what they are doing. When I first moved into the area, I was told: "Hurry up and join Dowanhill, because the rumour is that they're going to close the membership." There has therefore been quite a long-term plan to do exactly what has been done, so that people can argue that the club is dying.

**Mike Watson:** Like others on the committee, I have followed the debate in *The Herald* about people seeking to join being accused of—

**Elaine Black:** Carpetbagging.

**Mike Watson:** Trying to benefit personally. It is a difficult argument for people to overcome—unless they literally turn up at the door of the club with their tennis racquet in their hand and say, "No, I actually want to play." It is hard to settle those sorts of arguments.

However, Glasgow City Council's planning approach need not be affected simply because a club has ceased to exist because no tennis is being played and the courts have become overgrown. It is still a recreational facility even if it is not being used for the original recreational purpose that was intended.

**Mr Mann:** I think that we agree. Sports come and go. Just because one sport was popular 100 years ago, that does not mean that it is popular today. About 100 years ago, cricket was a major sport in Scotland. The first football match between Scotland and England was played at Hampden Crescent, because the biggest arena at that time was the cricket ground—

**Mike Watson:** In 1871—yes, I remember that.

**Jackie Baillie:** Were you there?

**Mr Mann:** We do not want to lose the open space, which could be used for other sports.

**Mike Watson:** Indeed. The point that I was making was that the tennis courts could be used for five-a-side football, which is popular at the moment, or for both sports.

**Elaine Black:** The club plays a large role in the community. For anyone who does not know the area, I should say that housing is clustered around the central gardens, bowling clubs and tennis courts—as is the case in Edinburgh. A lot of the elderly residents remember making cakes for the tennis club, the residents association has meetings there and it is all part and parcel of the community. I think that everyone agrees that the need for that kind of community facility is coming back to our cities.

On the face of it, the idea of moving the tennis to Partickhill—whose three courts, incidentally, have been derelict for 10 years, during which time tennis has not been played there—might look sensible, and people would say, "Well, it's only a mile and a half or two miles away." However, Partickhill is a distinct community in itself, which also clusters round its bowling club and its tennis courts. Aside from sport, those facilities have a role in the community. Many of the local schools do not have good sports facilities and no effort has ever been made to provide them. For example, the back tennis court at Dowanhill could quite easily be made into a five-a-side pitch for local schools to use during the week.

**Mike Watson:** Are any of you aware of whether Partickhill or Dowanhill have received public funding, from sportscotland, Glasgow City Council or the lottery, in recent years?

**Mr Kennedy:** I can answer that. The Dowanhill club received sportscotland funding. In fact, it has four tennis courts that have all-weather surfaces and lighting. To get that funding, I believe that it

made a case that access would be given to Glasgow University. The people who play there are mainly Glasgow University students, who are not allowed to join as members. In fact, the club champion is not allowed to be a member; he forgot to pay his subscription so they threw him out. They let him play, but they do not let him be a member.

The Partickhill club deliberately refused to apply for funding. It was offered help by the Western tennis and fitness club, which is local, but it refused that assistance. The Western club has a six-month waiting list and hundreds of people wanting to play tennis. The other strange thing about Partickhill is that the club applied to Historic Scotland for a grant for the club house, but when it realised that the building would have to be listed, it wrote back to say that it did not want the grant. It was actually given the money and rejected it. One can only conclude from that, and from the fact that it then closed the membership list, that there is a definite policy at the club. I recruited 110 new members for Partickhill, but they are not given votes or any interest in the assets. When the annual general meeting took place recently, the club did not tell anyone that it was happening and the meeting took place behind closed doors.

An important point was made earlier about making a planning case. At Newlands on the south side of Glasgow, the club supports the developer. That is what happens. The developer comes firing in and the club makes the case for the developer. The Newlands club said that new people who wanted to join the club were interested only in drinking. Apparently, no drinking normally goes on in sports clubs and old-fashioned bowling clubs. It was said that the new members were not seriously interested in the sport, and Glasgow City Council bought that argument and gave planning consent. At Kings Park on the south side, there are 50 members, and Dickie & Moore is applying for only nine flats. The 50 members get £8,000 each. It is not too difficult to make a planning case.

**The Deputy Convener (John Scott):** We need to press on.

**Helen Eadie:** I have been involved in establishing a number of charitable organisations and have been a founding member of some of them. One of the features of that process was that, in every case, we had to send the memorandum and articles of association in draft form to the Inland Revenue, which always insisted on a dissolution clause being included, so we soon learned not to omit that. The dissolution clause always had to say that the assets would have to go to an organisation of similar community benefit and not to the individuals who set it up. Have you involved the Inland Revenue? If so, what has it said to you?

11:30

**Mr Mann:** Unfortunately, a sports club cannot be a charitable organisation.

**Helen Eadie:** Do the trust laws have a similar focus?

**Mr Mann:** They do, but sports clubs cannot be charities.

**Helen Eadie:** Is a dissolution clause required under trust law?

**Mr Mann:** I think that if an organisation is a trust, the money cannot go to the trustees.

**Mr Kennedy:** The difficulty is that our trust law is not statutory. Charity law is all tied up with income tax and tax relief. The trusts that I am talking about pre-date income tax. Trust law in Scotland is common law—it is case law—and contains nothing that is of any help. If the documents have not been properly drawn up, they might have been copied from ones that people drew up for nothing.

**Jackie Baillie:** Your petition calls for people to be

“formally consulted by any party seeking to change the operation of the trust”.

However, you have talked a lot about there being no personal financial benefit. You will be aware that the Scottish Law Commission is doing a piece of work that will take some years to come to fruition, and what you are asking for properly sits within that. Will you clarify which is more important: the removal of the clause that indicates that there should be no personal financial benefit or the wider point about consultation with the community?

**Mr Kennedy:** When we started out, we wanted to go for the former. We would love there to be a piece of legislation that provided that, in all such cases, no one can ever take a personal benefit because we believe that that was the original intention. However, we do not want to come here and be seen as expropriators.

**Jackie Baillie:** That is absolutely clear. I am happy with that response.

**Rosie Kane:** I think, and I am sure that others will agree, that the issue is extremely complicated and involves lots of legal jargon. If I find it difficult to understand, I assume that members and the community are excluded from becoming involved in what is clearly another land grab. The petitioners are right to say that it is a national problem; we have heard about it in the committee before and I know that, in Glasgow, we hear about it in our surgeries all the time.

This morning we had an interesting debate about a health issue, and I am glad that we had

that discussion. However, it would be sheer hypocrisy if we did not try to do something positive with issues other than the smoking ban. I hope that we will hear from Pauline McNeill and Patrick Harvie because they clearly have an interest in the subject.

**The Deputy Convener:** What is your question?

**Rosie Kane:** I just wanted to agree with what Mike Watson said about the hypocrisy of fighting for a health issue earlier in the meeting when we need to put the same effort into this issue.

**The Deputy Convener:** I welcome Pauline McNeill and Patrick Harvie to the committee to discuss these important petitions.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I am grateful to the committee for allowing the petitioners to address the meeting. That was particularly helpful because there are some complex issues to deal with. I would like to address the question of the reform of trust law and why it would be useful for the Public Petitions Committee to consider that.

Members will be aware that Dowanhill is in the heart of the west end in my constituency of Glasgow Kelvin. It is a built-up area; we do not have enough green spaces. That is incidental to the petition but it is important to set out the background. The area is a constant target for developers, especially given the lucrative nature of the market in the west end.

Campaigns such as that covered in the petitions are not uncommon in the west end. Today we are discussing how to push back the interests of the trustees and the developers who see a lucrative opportunity to make a buck.

The committee has heard about the shocking behaviour of the trustees. We think that they stand to gain up to £100,000, although that figure has not been confirmed. Many of the trustees do not live in the area but they are making decisions for local people, so we can understand why there is a certain anger on the part of elected representatives and local people.

The committee has heard that the aims of the trust were clear: to benefit the local community in the west end, where there were not many sports clubs. People in the 1950s had the foresight to see that, but I wonder what the original trustees would think about what is happening now. I do not know whether any of them are still alive; I think that we are trying to find out. The land is precious and there is a lot at stake. There are particular concerns about young people in the area, who have actually been barred from joining the club.

It is the unique nature of PE817, on the reform of trust law, that I want to address. I seek to persuade the committee that it should undertake

to make progress with the petition. It appears that Scotland's ancient trust laws might need reform. In this case, the original aims of the trust have been amended, but it appears that there is no requirement for transparency or for any consultation whatsoever. I believe that information on the business of the trust must be made available to those with an interest in it. It appears to me that there may be a gap in the law. How can the rules of the trust be changed without reference to those who have an interest in it? The fact that the club is able to bar future beneficiaries is of legitimate interest. We should examine the law and consider whether it should be permissible for the club to do that.

There is also a question about who polices the operation of a trust. One of the arguments is that that is where the civil courts come into play: if there is a breach of trust, we go to the courts. However, as the committee heard clearly from the petitioners, there are prohibitive costs in going to court. There may be a role for a public body to take responsibility for considering whether the original aims of a trust have been breached in such cases. Helen Eadie mentioned dissolution clauses, which can sometimes be helpful, but we have heard that they can be removed without reference to those who have an interest in them. It seems to me that there is a clear flaw in the law.

I do not want to downgrade the importance of the second petition, but I acknowledge what members have said about it. The committee has heard many other petitions on planning consent and policy guidelines in relation to sport. I am sure that PE821 will add weight to the need for examination of the issue, but I urge the committee to consider the reform of trust law. It might be useful for the Parliament to examine the matter.

I apologise to the deputy convener, but I left a meeting of the Justice 1 Committee to come to the Public Petitions Committee and because we are preparing the stage 1 report on the Protection of Children and Prevention of Sexual Offences (Scotland) Bill I will not be able to stay for much longer.

**The Deputy Convener:** Thank you for coming along and for shedding a lot of useful light on the subject. The vagaries of trust law have baffled greater minds than ours—I mean those of the MSPs, at least—and I think that reform is probably overdue. I give Patrick Harvie an opportunity to make his contribution.

**Patrick Harvie (Glasgow) (Green):** I am grateful. I will try to be as quick as I can, as I appreciate that the committee has spent quite a lot of time on the matter.

I speak as a supporter of the petitions. Members will be aware of the many cases in which rights of

appeal in the planning system are an important aspect, and that is how I became aware of the problems with sports clubs both in the west end of Glasgow and elsewhere. As a member of the Communities Committee, and with planning legislation in mind, I have been trying to take as much interest as I can in the range of experiences that people have had in trying to prevent developments that will, they perceive, cause social harm to their communities.

When I met the Dowanhill tennis club campaigners, I was profoundly impressed not only by the passion with which they were defending their own community, but by their wider concern for the principle that they have brought to the committee today, which will apply to hundreds and thousands of other recreational facilities and community assets around Scotland.

The one simple message that I hope that members of the committee take on board is that the current situation is unacceptable. People feel righteously indignant when they hear that those who simply happened to be members of a club at a particular time stand to gain vast amounts of money for selling off something that is a community asset. The vastness of the amounts of money that are involved in such cases is a recent development. The basis on which clubs such as Dowanhill were established does not prepare people for dealing with situations in which very small pieces of land have become of immense value, huge amounts of pressure are being applied and developers are using some manipulative techniques.

We should acknowledge that even when the club involved has a number of members and campaigners who are extremely skilled and experienced in some of the issues and a member of the club who is prepared to challenge the process—as is the case with Dowanhill—a number of hurdles remain to be got over. We can only imagine what it must be like for individuals who do not have the same support. A single member of a club who was willing to challenge their friends, their neighbours, their tennis or bowling partners and people with whom they socialised by saying that they should not accept the vast amount of money on offer would be under a great deal of pressure. It is not acceptable to leave people merely with that opportunity to challenge the process, nor is it acceptable to leave them with just the planning system to rely on because, as members all know, the planning system allows inappropriate developments. That is one of the reasons why the Executive has acknowledged the need to reform the planning system.

It is clear that the Communities Committee may deal with some of the planning issues, but I

strongly encourage members to pursue the issues to do with trust law and to think about the way in which charities are being reformed, whereby their charitable purposes and their public benefits are being locked in. Should we not also lock in such community assets for the use of future generations in whatever economic context they may need to operate?

**The Deputy Convener:** Thank you very much for that. Do members have any suggestions on how to deal with the petition?

**Jackie Baillie:** I will confine my comments to PE817. As Patrick Harvie says, the Charities and Trustee Investment (Scotland) Bill is undergoing consideration, but the part of it that deals with trustees is quite narrow and I think that it is too late to incorporate in that bill such a huge body of work. The Scottish Law Commission is reviewing trust law. I suggest that, as a first stage, we should write to the commission about its likely timetable and approach and about whether it will be considering not just the overarching reform of trust law, but the two specific issues that the petitioner has raised. I am highly persuaded by the argument that no financial benefit should accrue to any individual.

A practical issue has been raised about whether grants that have accrued to any sports club are repayable in the event of a sale, for whatever reason. We should write to the Executive generically and sportscotland specifically about that. We should also write to the Executive about its position on the reform of trust law. It is clear that if the issue is of importance to the Executive, it will rise up the agenda and be considered in a shorter timescale.

**Ms White:** I agree with Jackie Baillie. I initially wanted to make a suggestion about the Charities and Trustee Investment (Scotland) Bill but, following a conversation with Jackie Baillie, I have decided that we should go down the line that she suggests, because the Scottish Law Commission is considering the matter. If such clubs offer overall benefit, we must look at the long term.

If I can move on to the two petitions that we considered last week—

**The Deputy Convener:** We can go on to those petitions if we are happy to dispose of PE817 in the way that Jackie Baillie suggested. Do we agree to her suggestion?

**Members indicated agreement.**

**Ms White:** We must write to ask the Executive for its comments on PE821. We must establish what additional planning legislation is required to deal with areas that are being sold off. Two petitions that we dealt with last week also touched on the matter. We should ask the Executive for its comments on the petitions en masse.

11:45

**The Deputy Convener:** I am sorry; I did not catch what you said. Did you suggest linking PE821 with previous petitions?

**Ms White:** Yes. Last week, we dealt with two petitions that covered the same issues: planning legislation and councils. We need to know what the Executive's position is.

**Mr Mann:** May I interrupt with important information?

**The Deputy Convener:** Very briefly.

**Mr Mann:** The suggestion is a short-term measure, because changing trust law will take quite a while. Planning applications could be called in tomorrow.

**Ms White:** Changing the legislation on trusts is a longer-term measure.

**Jackie Baillie:** I had not intended to comment on PE821, but unfortunately I must. I understand from the evidence that no planning application has been made. It is difficult for ministers to call in a planning application unless it has been submitted and the appropriate council has taken a decision.

**The Deputy Convener:** We are talking about the general issues, not the individual matters that are involved. We have used the petitioner's circumstances to illustrate the point, but we should leave it at that. Are we content with Sandra White's proposal for dealing with PE821?

**Members indicated agreement.**

**Ms White:** The committee will receive the Executive's comments, which keeps the matter live.

**The Deputy Convener:** Absolutely. I thank the petitioners for attending. We will be in touch with you in due course.

I welcome Michael McMahon back to the committee.

### **NHS 24 Services (Rural Areas) (PE814)**

**The Convener:** Petition PE814 is by John MacPherson on behalf of Killin community council and calls on the Scottish Parliament to consider and debate the implications for rural areas of the introduction of NHS 24 services, particularly in relation to ambulance cover and timescales in providing medical assistance to patients.

The petition was prompted by experiences in the petitioner's locality, but it is concerned more generally with the level of emergency medical provision in rural areas throughout Scotland. The petition also addresses emergency ambulance provision in rural areas, out-of-hours general practitioner services and NHS 24 response times.

The Scottish Executive is committed to monitoring and evaluating the service that NHS 24 provides. The University of Aberdeen is also undertaking a larger evaluation of the whole service since its introduction and is due to report its findings in autumn 2005.

We are joined by Sylvia Jackson, who is the local MSP. Does she have comments to make that will help us to consider the petition?

**Dr Sylvia Jackson (Stirling) (Lab):** Yes. I totally support the petition because of the unease that has been caused not only in the Killin area, but in the surrounding area of north-west Stirlingshire, over health care provision following the change in GP contracts and out-of-hours provision.

The petition is in the name of John MacPherson, who is the chair of Killin community council, but it is supported by all the surrounding community councils that cover north-west Stirlingshire, including those for Callander, Tyndrum and Crianlarich. The communities that are affected stretch over a considerable area and have a population of 5,000 to 6,000. Members can imagine that the population becomes much bigger in the summer months, particularly because of Loch Lomond and the Trossachs national park, which many hillwalkers and others visit. The area's distance from Stirling, from where the out-of-hours GP service operates, is 50 to 60 miles. The GP service had enhanced status previously because of the area's remoteness, so members can imagine that I was alarmed when I first heard that that service would not continue in some way.

An enhanced ambulance service operating with two full-time crews was proposed, whereas before the crews were part time. On the surface, that seemed to be what we were looking for. There will also be a rapid response unit, but the problem will be in the delivery of that service, not only because of staffing, but because of numbers—because there was some confusion about exactly what would be provided.

The local MP and I have recently instigated a number of meetings involving the Scottish Ambulance Service, the health board, the community council representatives and the local doctors to try to ensure that we understood what the enhanced provision would be and that it would be delivered. We are still in the process of holding that series of meetings.

I will give the committee an idea of some of the problems that arise. The most recent arose last week when a patient in acute pain was informed at 6 o'clock in the morning that, as it would take an hour and a half to get a doctor to her from Stirling, she should wait and go to the local GP when the surgery opened at 8 o'clock. In fact, the surgery

opened at 9 o'clock, and when she was seen by the local GP, she was immediately transferred to Stirling royal infirmary with a fairly serious condition. She was admitted for treatment and hospitalised for several days.

John MacPherson has pointed out that the area now has no nurses or midwives on call out of hours. The Scottish Ambulance Service has explained that there was a promise to enhance the service that attempts to cover the huge area of Callander and Killin. It now seems that the rapid response vehicle might also cover the Balfour area so the area will be even larger than we first thought.

As there was such concern about the situation, it was agreed that there would be a phasing-in period when the enhanced service would begin and the local GPs would stop operating their out-of-hours service. The deadline for that is 31 March. We have argued strongly that until a service can be agreed on and shown to work with an enhanced ambulance service and a rapid response unit, that 31 March deadline should not operate. The GPs are saying the same. They are somewhat alarmed because the paramedics were supposed to work alongside them as the service was phased in, but they have not been doing so. The GPs also report that the ambulance has often been manned by one person rather than the two that we were promised.

There are a number of issues. I will leave it at that and open myself up to any questions.

**The Convener:** Do members have comments? Do they wish to clear anything up or make recommendations on what to do with the petition?

**John Scott:** I am sorry that I did not hear the initial part of Sylvia Jackson's presentation. I have more of a comment than a question. It is to be welcomed that the First Minister last week instituted a review of NHS 24. I am aware that in Ayrshire over Christmas, the whole service was on the point of complete breakdown; indeed, the old ADOC—Ayrshire doctors on call—system had to be used during that spell.

There has to be a root-and-branch review of the procedures because we want the new system to succeed—who does not? However, the reality is that, as Sylvia Jackson illustrated, the system is perhaps not delivering, so we need to revisit NHS 24.

**Jackie Baillie:** I share John Scott's view and welcome the review of NHS 24. Situations in which constituents experience delays or are sent to the wrong hospital rather than the one that is nearest to them should not be happening. However, I take the point that Sylvia Jackson made about the linkage between the Scottish Ambulance Service and the other aspects of the

health service being critical. In the interests not of curtailing debate but of being helpful, I suggest that we write to the Scottish Executive, the Scottish Ambulance Service and NHS 24, seeking their views on the terms of the petition. I also suggest that we use the useful local examples that have been given to us by Sylvia Jackson to highlight some of the problems that are being experienced.

**Helen Eadie:** I also apologise for not hearing the start of Sylvia Jackson's presentation.

I agree with Jackie Baillie. However, perhaps we could also write to the Scottish Health Council. I believe that some members of the Health Committee will visit NHS 24 this evening. I was especially concerned to hear Sylvia's point about the ambulances not having two people on board.

**John Scott:** One of the salient points is the fact that this is a particularly big problem in rural areas, in which communication and transportation take a longer time than they do elsewhere. I know that David Mundell has drawn attention to the problem as it affects the Dumfries and Galloway area, and I share the concerns that have been voiced today.

**Ms White:** I was going to ask a few questions but Sylvia Jackson has outlined the situation extremely well.

I concur with the recommendations that Jackie Baillie made but wonder whether it might also be useful to write to the relevant health boards to find out their views on what has been said.

**The Convener:** I am happy to do that, but I suspect that the Executive's response would cover that aspect.

**John Scott:** I imagine that the Scottish Executive would invite the relevant health boards to respond.

**The Convener:** If we do not think that the reply from the Executive is satisfactory, we could write to the individual health boards at that point to ask for their assessment of NHS 24. If we start by writing to the Executive, we will get an answer that will enable us to make that decision.

**Ms White:** I go along with that.

**Rosie Kane:** Who are we writing to?

**The Convener:** The Scottish Executive, the Scottish Ambulance Service, NHS 24 and the Scottish Health Council.

**John Scott:** Ultimately, I expect that we will refer all the responses to the review of NHS 24.

**The Convener:** We will gather information on behalf of the Killin community council and will keep it informed of the responses to the petition.

**Dr Jackson:** I was pleased to hear the examples that Jackie Baillie and John Scott gave

and I know that the petitioner has been in contact with community councils in various rural areas. He is aware that the problem that is faced by Killin is not unique.

What makes the situation worse is that, previously, the service had some sort of enhanced status. The community and the local doctors feel that the present situation is much worse than they had before and that the service is now a second-best one. Although the paramedics can do a good job, certain assessments have to be made elsewhere and the distances involved mean that there is a one and a half hour drive from Stirling. The landslip that happened near Lochearnhead, which we all know about, is an example of a situation that can cause problems in the remote areas that we are talking about.

A big issue that you might like to include in your letters is the shortage of fully trained paramedics. It might be helpful if you could ask about the situation on the ground.

**The Convener:** If we include that specific question in our correspondence, we should get a direct answer to it. Obviously, we will keep Mr MacPherson and the community council apprised of the responses that we get.

### **Education Maintenance Allowance Payments (PE815)**

**The Convener:** Our final new petition is PE815, from Ian Dalrymple, which calls on the Scottish Parliament to urge the Scottish Executive to review the distribution of education maintenance allowance payments this year to ensure a fairer introduction of the new higher payments so that all eligible pupils will gain an equal amount.

The education maintenance allowance is available to eligible young people who are over 16 and in fifth or sixth year at school or at a college of further education. The aim is to encourage young people who face financial barriers to participating in education to remain in education. Members are aware that the petitioner has provided further information, which was circulated earlier this week; he argues that the distribution of the new EMA payments is "discriminatory and unfair".

12:00

**Mike Watson:** Despite the additional information that Mr Dalrymple has provided, I am not absolutely clear what he is saying. He seems to be talking about a one-off problem in the transitional year between the bursary and EMA systems, but he does not make it clear how the disparity occurs. He says:

"pupils in fifth and sixth year education are receiving different amounts of monies as some are receiving EMA payments which are higher than the School Bursary."

I do not have sufficient knowledge of the subject to know whether the school bursary will become redundant. Will the bursary be available next year in addition to the EMA, or will it be fully replaced by the EMA? Perhaps other members have a clearer understanding of the situation. I am not sure what we can do if the problem arises only in the transitional year, because the situation will rectify itself next year.

**The Convener:** It might be worth our seeking clarification. We can write to the Executive to ask it to explain the current situation and the aim of the EMA.

**Mike Watson:** I am clear about the aim of the EMA, possibly because as a Glasgow member of the Scottish Parliament I witnessed the operation of the allowance in the pilot study. However, I am not clear about the transitional arrangements.

**The Convener:** That is what I meant to say. We will ask the Executive what the transitional arrangements are intended to do and how they are working, rather than about the EMA, which I think that we all understand. If the Executive responds to our question we will be better placed to make a decision on the petition. Do members agree to take that course of action?

**Members indicated agreement.**



## Current Petitions

### Local Government Elections (PE726)

12:02

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

At its meeting on 10 November 2004, the committee considered responses from the Scottish Executive, the Electoral Commission, Renfrewshire Council, the Society of Local Authority Chief Executives and Senior Managers and the Convention of Scottish Local Authorities. The committee agreed to ascertain whether the Executive would be minded to implement an order that would remove the exclusion of local government elections in Scotland from the Electoral Commission's remit. The Executive's response says:

"Ministers are ... concerned that extending the Commission's remit to local government elections could be viewed as handing devolved functions back to a UK body, and that any such extension could possibly result in less emphasis being placed upon issues which are of particular relevance to Scottish local government elections. Ministers have therefore decided that while they wish the Executive to work closely with the Commission on the preparations for the elections in 2007, they do not wish to transfer responsibility for functions relating to local government elections to the Commission. They have, however, indicated that they will review their position after the 2007 elections."

Do members have a view on that?

**Helen Eadie:** I am content with the Executive's response. The Executive will review the position after the 2007 elections; it makes the reasonable and valid point that a change in the system could be regarded as handing devolved functions back to a UK body. We should accept what the Executive says and take no further action on the petition.

**John Scott:** I agree with Helen Eadie. The Executive's response is reasonable; it has not closed the door on the matter and it intends to review the position in 2007. I hope that the petitioner will be content with that.

**Ms White:** I probably agree with John Scott and, although I do not disagree with Helen Eadie, I find it strange that the Executive says that it will review the position in 2007, given that it also says that it will take no action now. In his letter to the committee, the chief executive of Renfrewshire Council expressed

"concern at the procedure adopted in this particular case".

Perhaps somebody will explain to me what the difference is. In one year, it is being said that the change would be regarded as devolved powers being handed back to a Westminster Government. However, everybody seems to be saying that, in another year, it would be good for the commission to have extra powers for training and such things. I cannot understand why there is a difference. SOLACE and others say that the commission should have extra powers; the Executive says that it should not, but that there will be a review. I am not happy with not doing anything about the matter.

**The Convener:** There is a contradiction in the responses, but my reading of the situation is that the Executive takes an overview, whereas the local authorities are considering specific sets of circumstances. In taking an overview, the Executive thinks that it would be taking away powers from local authorities to hand them to the commission and that that would not be the right thing to do. However, the election in 2007 will be the next opportunity to consider how things are operating, and it would be appropriate to review things then. What the Executive is saying or why it is saying that is not unclear, but the Executive's position clearly contradicts that of SOLACE. However, I understand why it would do so.

**Ms White:** I probably understand why it should do so, but there is a contradiction in saying that it will consider the matter in 2007. Why should it not consider the matter now?

**John Scott:** It may, of course, consider the whole issue in 2007; it may consider many such matters rather than the specific issue that the petitioner has raised.

**Helen Eadie:** It may do so in the light of experience.

**The Convener:** That may well be the case.

**Ms White:** I simply think that there are two opposing views, but if the other members of the committee are happy, I will go along with them.

**The Convener:** Are members happy to close consideration of the petition?

**Members indicated agreement.**

### Adults with Learning Difficulties (Provision of Services) (PE743)

**The Convener:** The next petition is PE743, by Madge Clark on behalf of the Murray Owen Carers Group, which is on services for adults with learning disabilities living at home. The petition calls on the Scottish Parliament to urge the Scottish Executive to review the implementation of "The same as you? A review of services for people

with learning disabilities" to ensure that adults with learning difficulties who still live at home and are cared for by elderly parents are given the same support and community care opportunities as those that are given to hospital-discharged patients.

At its meeting on 8 December 2004, the committee agreed to invite the Scottish Executive to comment on responses from Enable and the Scottish Consortium for Learning Disability. It also agreed to seek the petitioner's views on the responses. Those responses have been received and circulated to members. Do members have any views on them?

**Jackie Baillie:** On balance, the Scottish Executive's response is very positive. In particular, I welcome the fact that Executive officials will work with Enable to consider the demand for services by older carers—that gets to the heart of the petition.

The Executive is about to monitor the partnership in practice agreements for 2004-07, if it is not already doing so, and it has said helpfully that it will identify key themes from that work. I wonder whether we should ask for the committee to be updated about that, as we want to see local authorities buying into their responsibilities for the implementation of "The same as you?" I am keen to keep the petition going and to invite the Executive to tell us what key themes are emerging. We should also welcome the fact that the Executive will work with Enable.

**John Scott:** I agree entirely with Jackie Baillie, but I want to build on what she said. The issue is hugely important. In particular, the suggestions at the end of the document that Madge Clark has signed are vital; we should note what is said, starting from:

"We should like to suggest that a procedure should be introduced making it mandatory in all Local Authorities to review their situation for all long-term carers once they reach the age of 60."

There is a crisis waiting to happen in respect of elderly relatives who are carers. In essence, such crises are dealt with by intervention. There is a huge need for long-term planning. We should invite the Executive to comment on consistency of delivery throughout Scotland and by local authorities.

I am hugely concerned about the long-term availability of funding for the programme. I do not doubt that things are being done with the best intentions, but there are already issues in my Ayr constituency around funding and free personal care for the elderly, which was intended to be fully funded by the Scottish Executive. The reality is that it is not—there are waiting lists. I have concerns that, despite the best intentions, that is what will happen with this programme as well.

A further issue on which we should ask the Executive to comment is the availability of carers. Personal experience tells me that many carers are needed if 24-hour care is to be provided, but there are just not enough people in our communities to do that. Again, that is particularly the case in rural areas. Huge issues are involved in the subject of PE743. I agree with Jackie Baillie that we need to keep the petition alive.

**Helen Eadie:** I agree with what has been said, especially John Scott's last point about carers. That point was picked up by Enable, which said in its letter that the implementation group had not looked at the issue of family carers for adults. That oversight gives an impetus for a further report from the Executive.

Enable made another valid point, which is that the Executive has never produced a care action plan with targets and timetables for action. The people behind "The same as you?" believed that that was one of the outcomes that would result from the report. For the reasons that I have outlined, I am happy to support what Jackie Baillie and John Scott said.

**John Scott:** Helen Eadie spoke about the need for precise deadlines and timetables, but they may not be as important as she might think. In places where sympathetic consideration is given to the issue—which is certainly true of the health board in my area—the right packages can be put in place. If a health board takes time to put the right package in place, it is better that it does so and is not driven by timetables as was proposed in "The same as you?" policy.

**Helen Eadie:** Enable's point is not so much about the health board's implementation of the policy, but about the fact that the Executive has not produced a clear action plan with targets and timetables. That is the point that I was trying to make.

**John Scott:** I am sorry if I misunderstood it.

**The Convener:** There seems to be agreement that we should keep PE743 open and that we should monitor the implementation of the targets and themes. Are we agreed that we will ask the Executive for that information?

**Members indicated agreement.**

## School Holidays (Standardisation) (PE747)

**The Convener:** Our next petition, PE747, was submitted by John MacLeod. The petition calls on the Scottish Parliament to urge the Scottish Executive to work with the Convention of Scottish Local Authorities in aiming to standardise school holidays across all local authorities in Scotland throughout the year. An amended briefing note on the petition has been circulated.

At its meeting on 29 June 2004, the committee agreed to seek the comments of the Scottish Executive and COSLA. The responses have been received and circulated to members.

**Mike Watson:** When the issue was discussed in June, I remember expressing the view that PE747 was worthy of our support. I would like to see standardisation. I am therefore disappointed in the responses, as neither the Executive nor COSLA seems to regard the issue as one of pressing urgency.

Only 45 per cent of local authorities responded to the COSLA consultation, of which only seven favoured national standardisation. As I said, I am in favour of standardisation, but the responses indicate that there is no appetite for anything to be done.

**The Convener:** There is certainly no appetite in the Executive response, which says that the matter

“did not emerge as a real issue for parents, pupils or teachers.”

That is not my experience.

The matter is raised with me constantly. I represent a constituency that covers North Lanarkshire and South Lanarkshire and the two local authorities have different holidays. Parents who live in one local authority area and work in the other have to make alternative child care arrangements during holiday times. I wonder who the Executive spoke to before it arrived at its conclusion.

**Mike Watson:** The Executive refers to the national debate on education and implies that there is a degree of consistency in relation to school holidays. However, the example that the convener has just given of the two Lanarkshire authorities shows that there is not much consistency.

**The Convener:** That is certainly my experience.

12:15

**Helen Eadie:** People who sit on the fence are in danger of grievous bodily injury, but, on this issue, I sit on the fence. I understand the arguments from COSLA and the Scottish Executive. When I was on Fife Council's education committee, the issue was discussed perennially. There were always people who said that, on a holiday, it was a benefit to be able to go to other areas where shops were open. On the other hand, particularly because Fife is a dormitory area for Edinburgh, we had families in which one parent worked for the City of Edinburgh Council, while the other worked in Fife, which meant that the whole family could never go on holiday.

The matter depends on the balance of opinion. It is interesting that, as the Executive states, the subject did not emerge as a big issue in the education debate. One wonders why—was it because people do not participate much in politics or because the issue did not occur to them when the debate was going on? I do not want to stop committee members if they want to take action, but I do not see any point in taking the petition further.

**John Scott:** I do not want to stop members taking action either, but the Executive's response is reasonable. It states:

“What has been achieved is a very considerable measure of standardisation ... yet still allowing for local variations where an authority considers that appropriate.”

I was surprised to hear what Michael McMahon said about the two Lanarkshire authorities, because the issue has never been raised with me in relation to Ayrshire. If the system was completely standardised, everybody would leave, using motorways or aeroplanes, on the same day or the same night. The variation that exists, within the standardisation, is reasonable and I am content with it. I am sorry to contradict you, convener.

**The Convener:** You did not contradict me. My experience of the matter is not as described in the Executive's response. I do not know whether we can do anything about the issue, but problems occur in adjacent areas when one local authority area is on holiday. Problems often arise for people who live in the west but work in the east, because holidays can be weeks apart. The issue in North Lanarkshire and South Lanarkshire usually comes down to in-service training days for schools—the South Lanarkshire schools may be on holiday one Monday and the North Lanarkshire ones on the following Monday. That is a matter of days, but mid-term breaks in the east of Scotland are in an entirely different week from those in the west. Some people work on one side of the country, while their children are educated on the other side.

My experience is that the situation causes difficulties, although the Executive says that the matter is not an issue. I do not understand why the Executive made that point, although I accept that the issue was not raised officially and taken cognisance of in the big debate on education. I do not know what we can do about the matter, but I cannot accept that there is not a problem in certain circumstances.

**John Scott:** On that basis, we should close the petition.

**Helen Eadie:** If there is suddenly a big debate, the issue could be revisited, under the standing orders, in the agreed timescale.

**The Convener:** Given that there is nothing we can do on the issue, do members agree to close the petition?

**Members indicated agreement.**

### **Gypsy Traveller Sites (PE760)**

**The Convener:** Petition PE760, which is by Mhairi McKean on behalf of the Gypsy/Traveller Community Development Project and the Scottish Human Rights Centre, calls on the Scottish Parliament to investigate the provision and cost of electricity for Gypsy Traveller sites and accessibility to central heating and warm deal programmes for people who live in mobile homes.

At its meeting on 15 September 2004, the committee agreed to seek comments from the Minister for Communities, COSLA, energywatch and the Eaga Partnership. Responses have been received and circulated to members. The clerk has been advised that the Equal Opportunities Committee is conducting a review of progress in relation to its 2001 report on Gypsy Travellers and public services. Before I take members' views, I declare that I am a member of the Gypsy/Traveller Community Development Project steering committee in the west of Scotland.

**Ms White:** The petition should be sent to the Equal Opportunities Committee. I am not happy with some of the responses that we have received from some of the organisations. It would be a good idea to send the petition to the Equal Opportunities Committee for investigation.

**Rosie Kane:** I, too, am worried about the petition especially in relation to fuel poverty. A trial is under way to find out how feasible it would be to put central heating into the accommodation. Malcolm Chisholm has expressed concern about fuel poverty, but there is nothing to say what people should do until the results of the review are available.

The Ofgem document, unless I am reading it wrongly, says that the maximum resale price of fuel—the most that anyone can charge—does not apply

"when an inclusive charge is made for accommodation – for example, where a tenant pays a charge of (say) £100 per week, which includes 'all amenities' and identifies no specified charge for the gas or electricity."

Could there not be a bit of a rip-off going on there? There is nothing there to tell me that the charges are itemised so that it can be seen that the rent has not been bumped up. The companies are supposed to resell the fuel at the price at which they bought it.

The document goes on:

"Maximum resale price also does not apply ... to liquefied petroleum gas".

If someone does not have central heating, they might have to fall back on LPG so they could be getting ripped off.

I am a wee bit concerned that there might be loopholes and inadequacies in the responses that we have received.

**Jackie Baillie:** I have no doubt about the complexity that is involved in trying to deliver on this. I take some issue with Rosie Kane's quotation, because it relates to accommodation charges that include electricity and gas. My understanding is that accommodation is not paid for as well and there are separate charges for electricity and gas, so the situation that Rosie Kane is concerned about would not arise.

I agree with Sandra White's recommendation. The issues were raised at the time of the Equal Opportunities Committee's report, which is being reviewed; it would be appropriate to ask that committee to consider the issue further.

**Helen Eadie:** I support Jackie Baillie and Sandra White's recommendation that the petition should go to the Equal Opportunities Committee. However, there is one further thing that I would like us to do. The energywatch response seems quite helpful, in that the chief executive said:

"I would like to take this opportunity to reiterate that energywatch would be happy to work with the gypsy/traveller community and local authorities to help address some of the concerns."

It would be helpful if that could be communicated to the petitioners.

**The Convener:** The petitioners get copies of the responses, so they will already be aware of that. We can certainly ask the Equal Opportunities Committee to look into the specific points.

**John Scott:** I agree with what has been said. This is an enormous problem and a great deal more work might need to be done to resolve it. It will be inordinately difficult to reach equality of provision. I recommend that the petition go to the Equal Opportunities Committee.

**The Convener:** Are members agreed?

**Members indicated agreement.**

### **Sub-post Office Closures (PE764)**

**The Convener:** Petition PE764 is by Margaret Tait, on behalf of the Stoneybank Tenants and Residents Association in Musselburgh. The petition calls on the Scottish Parliament to request the Post Office to consider sympathetically the needs and requirements of disabled and elderly persons who, in urban areas in Scotland, would be expected to walk a substantial distance—sometimes in excess of 2 miles—as a result of the possible closure of certain sub-post offices.

At its meeting on 29 September 2004, the committee agreed to seek the comments of the Scottish Executive, Royal Mail, Postwatch Scotland, the Disability Rights Commission, Age Concern Scotland and Help the Aged. Responses have been received and circulated.

**John Scott:** We should invite the Executive to respond to the concerns of Postwatch Scotland, the DRC, Help the Aged and Age Concern. We should ask whether the programme of restructuring the urban post office network meets the Executive's social inclusion policy agenda. If it does not, that raises the question whether the Executive can force the Post Office to do that.

I have concerns about the closure this month of the fund to develop post offices in deprived urban areas. We could write to ask for information about what will happen after that fund closes. Will it have a successor or was it a one-off? I am concerned in particular about social inclusion, not least in an area in my constituency.

**Ms White:** I agree with everything that John Scott said. The subject has caused much concern to all MSPs and communities. We must ask the Executive whether the programme fits in with the social inclusion agenda. I concur with the recommendations.

**The Convener:** Does everyone agree?

**Members** *indicated agreement.*

### **Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (PE767)**

**The Convener:** Petition PE767, which is by Norman Dunning on behalf of Enable, calls on the Scottish Parliament to urge the Scottish Executive to review the operation and effectiveness of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

At its meeting on 29 September 2004, the committee agreed to seek comments from the Minister for Justice, the Law Society of Scotland, the Scottish Law Commission and the Lord Advocate. Responses have been received and circulated.

The Minister for Justice's response says:

"There are currently no plans to amend this legislation. The responsibility for implementing the findings of a Fatal Accident Inquiry by remedying any defects in practices or procedures which the sheriff identifies lies with those who have responsibility for managing the systems in question."

The Scottish Law Commission says that it has "recently carried out an extensive consultation exercise seeking suggestions of topics that might be included in our next programme of law reform. The 1976 Act was not mentioned".

Do members have comments?

**Helen Eadie:** Our briefing says that the Law Society responded that its criminal law committee would consider the petition at a forthcoming meeting, but we have received no further response. Should we chase that up with the organisation? It would be valuable to have the society's comment. I note what the Executive said, but I would feel happier if I had the Law Society's response.

**Jackie Baillie:** We have received such a response—it is annex E—in which the society's deputy director says:

"This matter has been considered by the Society's Criminal Law Committee."

Our briefing should have been updated. The deputy director also makes the helpful suggestion that

"it may be appropriate for research to be done to evaluate the system and ascertain on an empirical basis whether reform is appropriate."

We have heard evidence that fatal accident inquiries might not work as well as they could and nobody has really investigated the subject. Given that and the Executive's desire to have evidence to back up its proposals, perhaps we could suggest to the Minister for Justice that research should be conducted into whether the system is working.

**The Convener:** That suggestion is good. Is everyone happy to do that?

**Members** *indicated agreement.*

### **Screening (Heart Disorders) (PE773)**

**The Convener:** Petition PE773, which is by Wilma Gunn on behalf of Scottish Heart at Risk Testing, calls on the Scottish Parliament to introduce the necessary legislation to ensure that provision is made to offer screening for cardiomyopathy and all heart disorders to all those aged 16 and over who embark on strenuous competitive sports and to all families with a history of cardiac problems.

At its meeting on 27 October 2004, the committee agreed to seek comments from the Scottish Executive, the Cardiomyopathy Association, the British Heart Foundation, the United Kingdom National Screening Committee, the national advisory committee on coronary heart disease and sportscotland. Responses have been received and circulated.

The Minister for Health and Community Care states in his response that, on the basis of the advice from the NSC, the Executive has decided against providing hypertrophic cardiomyopathy screening.

The BHF states:

"at present, there is no evidence to suggest that a wider screening programme for children who wish to take part in strenuous sport would be of benefit."

The national advisory committee states:

"We are aware that the Child Health Sub-Group of the NSC last year reviewed the case for screening for Hypertrophic Cardiomyopathy and again concluded that a national screening programme would not be appropriate.

However, the NACC wish to hear Professor Hillis' views on advances in treatment of this condition especially in relation to implantation of ICDs."

Sportscotland states that it understands

"the natural concerns around this disease. We consider that further research may be advised and suggest that the Scottish Executive Health Department continue their proposals to consider all soundly-based proposals for further research."

Do members have views on the matter?

12:30

**John Scott:** We should note the responses. I am surprised at the responses from the UK National Screening Committee, the British Heart Foundation and the national advisory committee. Nevertheless, having sought their opinions, we must, to some extent, take notice of them. It was moving to hear about the individual circumstances that prompted the petition; however, the various bodies make the conclusive case that there would be no huge benefit in offering such screening.

The remaining question is whether the provision of defibrillators is adequate at sports venues throughout Scotland. We should ask the Executive to satisfy itself, at least, that there are a sufficient number of defibrillators. We could also consider the Executive's policy on screening on the basis of on-going research in this area, but perhaps that is a matter for another day.

**Helen Eadie:** I support what John Scott has said. In addition, given the fact that we have received extensive responses from those organisations, we should respond directly to the petitioners. I agree that it was moving to hear from them, and that might be helpful.

**The Convener:** Are members happy for us to do those things?

**Members** *indicated agreement.*

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

**The Convener:** Our last petition today is PE778, on the upgrading of the Laurencekirk/Marykirk junction on the A90. The petition, which is from Jill Campbell, calls on the Scottish Parliament to urge the Scottish Executive to upgrade the junction.

At its meeting on 10 November 2004, the committee sought an update from BEAR Scotland,

which had been commissioned to investigate and report on what road safety measures, including signage, would be appropriate at the junction of the A90 and the A972 at Laurencekirk, following a recent fatal accident. The committee agreed to seek comments from the Royal Society for the Prevention of Accidents, the Scottish Accident Prevention Council, Aberdeenshire Council and the European Road Assessment Programme. Responses have been received and circulated.

The Minister for Transport's response says:

"BEAR's report has now been received and includes a series of recommendations to improve road safety at this location."

He goes on:

"Having considered and discussed the options with Grampian Police and the North Safety Camera Partnership ... the Executive has decided to take action on all of these recommendations."

Do members have any comments?

**Mike Watson:** A number of points are listed in the minister's letter, but I am not sure whether what he promises constitutes an upgrading of the junction. Perhaps we should ask Jill Campbell and her campaigners whether they regard that as providing what they asked for when they set out on their campaign. I do not know the junction, and I suspect that other members do not. The minister lists eight actions to be taken, which I presume will help, but I do not know whether they will provide what Jill Campbell was asking for. I suggest that we write to ask her.

**John Scott:** They certainly do not constitute the grade separation that the petitioners were asking for. Nonetheless, what the petition has delivered thus far is a positive result. Indeed, it is a tribute to the local member, Mr Rumbles, and his colleague, Mr Davidson.

**The Convener:** Do you want to comment, Mike?

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Mike Watson's comments are pertinent. The campaigners are concerned about both short-term and long-term measures, and everything that is listed in the minister's letter is extremely welcome. The group welcomes short-term measures such as the 50mph speed limit, the new grading system, the lights, and everything else. However, the objective is for complete road safety and a grade-separated junction—basically, a flyover or such. Therefore, although the group welcomes the Executive's response very much—as do I, as the constituency member for the area—we want to keep the pressure on to get the grade-separated junction. That is the important long-term objective.

**The Convener:** Are members happy with the responses? I think that there is a longer-term

issue, and Mike Rumbles will have to keep an eye on it. If the petitioners want to get back to the committee, we will be more than happy to hear from them. Are members satisfied with the outcome of the present petition?

**John Scott:** It is a positive outcome, thus far. It is another accolade for the Public Petitions Committee and a very good point at which to end consideration of the petition.

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

**Members** *indicated agreement.*

**The Convener:** That concludes our meeting. I thank everybody for their attendance.

*Meeting closed at 12:36.*





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