

PUBLIC PETITIONS COMMITTEE

Thursday 8 September 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Thursday 8 September 2005

Col.

NEW PETITIONS	1921
Haulage Industry (PE876).....	1921
Coastal and River Erosion (National Strategy) (PE878)	1938
Bankruptcy Law (Sequestration Recall Process) (PE865)	1944
Affordable Housing (Scottish Executive Policies) (PE877).....	1948
Justice System (Child Sex Offenders) (PE862)	1949
Vulnerable Adults (Medication) (PE867)	1954
CURRENT PETITIONS	1956
Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (PE841)	1956
Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (PE767)	1960
NHS Scotland (National Specialist Services) (PE791)	1961
National Parks (Scotland) Act 2000 (PE805)	1963
GSM-R Communication Masts (Planning Permission) (PE811)	1965
Global Campaign for Education (PE734)	1966
High Voltage Transmission Lines (Potential Health Hazards) (PE812)	1966
Food for Good (PE704)	1970
NHS 24 Services (Rural Areas) (PE814).....	1971
NHS Services (Rural Areas) (PE826)	1971
Out-of-hours Medical Services (Rural Communities) (PE776)	1971
PUBLIC PETITIONS COMMITTEE EVENT	1976

PUBLIC PETITIONS COMMITTEE

13th 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)

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

Bruce Crawford (Mid Scotland and Fife) (SNP)

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Edward Fowler

Pat Glancey (Road Haulage Association)

Donald Gorrie (Central Scotland) (LD)

Linda Fabiani (Central Scotland) (SNP)

Rob Howie

Dr Sylvia Jackson (Stirling) (Lab)

Mr Jamie McGrigor (Highlands and Islands) (Con)

James Mackie

Paul Martin (Glasgow Springburn) (Lab)

Hamish Morrison (Stewart Milne Timber Systems Ltd)

Alex Neil (Central Scotland) (SNP)

Mr Mark Ruskell (Mid Scotland and Fife) (Green)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Thursday 8 September 2005

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

New Petitions

Haulage Industry (PE876)

The Convener (Michael McMahon): Good morning and welcome to the 13th meeting in 2005 of the Public Petitions Committee. I have received no apologies from members.

Agenda item 1 is new petitions, the first of which is PE876, by Phil Flanders, which calls on the Scottish Parliament to conduct an inquiry into the future prospects for the Scottish haulage industry and any knock-on impact on the Scottish economy. Before the petition was formally lodged, it was hosted on the e-petition site, where it gained 1,116 signatures in the period from 10 May 2005 to 26 August 2005. The e-petition received eight comments, all of which supported its terms. The usual e-petition briefing has been circulated for members' information.

Patricia Glancey is here to make a brief statement to the committee in support of the petition. She is accompanied by Robert Howie and Hamish Morrison. I welcome you to the meeting. You have a few minutes to make opening remarks, after which we will discuss the points that you have raised.

Pat Glancey (Road Haulage Association): Thank you, convener. We have approached the Scottish Parliament to conduct an inquiry into the Scottish haulage industry. Many factors are contributing to the industry's problems. The general costs for hauliers are far higher in Scotland than anywhere else in the European Union and there is increasing competition from EU-registered vehicles in Scotland, which come through United Kingdom and Scottish ports.

On average, fuel currently accounts for 40 per cent of hauliers' costs and there is a problem with fuel suppliers, who are failing to increase credit terms for hauliers—those increases are needed because of the high cost of fuel. A credit limit that would normally cover someone for six weeks will now cover them for only around four weeks, which impacts on current cash-flow problems.

An increasing amount of legislation is being imposed on the industry—in fact, some 2,080 main statutes relate to transport law. The industry

is small-business oriented. Some 94 per cent of Scottish hauliers have 10 vehicles or fewer; 54 per cent have one vehicle and 30 per cent have two to five vehicles.

The recent introduction of the road transport directive and the working time regulations has had a major impact on the industry. The serious impact of the legislation could not have been estimated at the time of the consultation—its effect on the industry could be shown only on its introduction. Although we appreciate that the impact is felt UK-wide, we believe that the impact is felt harder in Scotland because Scottish goods have a far greater distance to travel to their markets.

Some 5.7 per cent of the Scottish workforce is employed in logistics, and transport accounts for 43 per cent of the cost of logistics. Some 137,000 people are involved, compared with 38,000 people in agriculture, 120,000 in finance and 120,000 in hotels and restaurants. Moreover, 76 per cent of all Scottish road tonnage moves less than 100km and 89 per cent of all Scottish road freight tonnage moves internally in Scotland—the average figure for other UK regions is 66 per cent. The industry is being crippled and we need help. We also need an inquiry to show the effect on the economy.

I have with me Hamish Morrison, who is the operations director for Stewart Milne Timber Systems Ltd, and Rob Howie, who is a haulier from Aberdeen.

Hamish Morrison (Stewart Milne Timber Systems Ltd): Stewart Milne Timber Systems has a 24 per cent market share of timber-frame housing in the UK and services a UK market from Aberdeen. We have a second factory down in Oxford, which was built three years ago. We are in the process of making investment decisions on future factory facilities. The question is whether it is viable for us to make that investment in Aberdeen or whether the investment should be made outwith Scotland, down in England, where our market is. The competitiveness of our products has been seriously affected by the difficulties that the haulage industry is going through. We do not see the situation getting any better; it is all going in the wrong direction for those decisions to be made.

I would like to pose a question: what is being done to stop that drain of local industry in Scotland and to stop investment decisions being for outward rather than inward investment? We are totally dependent on the haulage industry getting our goods to market.

Rob Howie: I am a haulier based in Aberdeen. I operate 20 vehicles and employ 25 people. As a direct result of what is happening in the north-east, I also have an operation down in Whitney, Oxfordshire, which employs 11 people. My main

concern is the effect that the situation is having in the north-east of Scotland. We have been in business for 31 years and there has been a steady decline in our customer base. I will cite just a few examples. I could mention 26 separate companies that have gone out of business, from paper mills to fish processors and engineering works. They have gone from the north-east, never to return.

Incredible as it might seem, in the past four years, 498 tractor units have disappeared from a total list of 36 hauliers—all based in the north-east. The cost of running a haulage operation from our area is getting seriously out of control, and we are fearful for the future of our industry and of industry in general in the north-east of Scotland. Customers such as Stewart Milne are opening satellite plants in England and companies such as R B Farquhar, from Huntly, are moving to the Czech Republic because the operating costs are far lower there. John Fyfe Ltd, which supplied a lot of the product for the Parliament, has opened a quarry in India and is importing a vast proportion of its materials from China. That is an indication of what is happening across the north-east, which is of grave concern to us.

The Convener: Do you have anything else to add?

Pat Glancey: No, that is us. People do not realise the vastness of the logistics, distribution and transport industry and the way that it affects Scotland. It is all right to talk about intermodal movement from road to rail, the length of the journeys and just-in-time deliveries, but even if we moved 300 per cent in that direction over the next five years, 85 per cent of the movements in Scotland would still have to be made by road.

The Convener: Okay. I will open the matter up for discussion. A few years ago, I asked a question of the then minister with responsibility for transport about what preparations were being made by the Scottish Executive to take account of the working time directive. I was amazed to get the response that the Executive had not looked at the issue. That was a bit of an eye opener for me. Has the situation improved? Have you had any discussions with the Executive about the working time directive and its impact?

Pat Glancey: The working time directive was implemented on 4 April. Its implementation was delayed purely because one or two issues relating to periods of availability had to be clarified by the union. Six months down the line, the directive is causing great heartache, stress and confusion in the haulage industry. The majority of drivers—especially those in the hire-and-reward sector—are working under drivers' hours and tachograph regulations, which are strict, as Mr Howie will be able to tell you. I do not know why we have to enforce that extra bureaucracy on smaller

businesses and on those drivers, as they are governed already. The situation is apparently going to be reviewed by the Department of Trade and Industry next year but, so far, nothing has changed.

The Convener: I open up the discussion to members' questions.

Campbell Martin (West of Scotland) (Ind): Although this question might seem simplistic, it probably goes to the core of the matter. If the minister responsible asked you what you needed to make your businesses and, indeed, the Scottish transport industry viable and competitive, what would you tell him?

Pat Glancey: I know that the matter is reserved, but just now we need someone to look at fuel running costs, which are getting out of hand. As I said, they make up at least 40 per cent of our total running costs.

The legislation that has been imposed on hauliers should also be looked at. When a vocational driver such as a lorry driver takes his vehicle on to the road, he faces more legislation than someone who works in a hospital.

We must also examine the trend of investment in Scotland, particularly with regard to exports. In real terms, our exports have fallen by 32 per cent in six years. We need someone to understand that the industry is not just six lorries supposedly tailgating one another on the motorway; it covers all aspects of the supply chain such as getting the freight to where it is going, ensuring that it gets there on time, ensuring that, once it is there, it can be moved between plants and, finally, taking away the finished product. We need people to understand the size of the industry and the professionalism of the people involved in it. However, we certainly need help with legislation and fuel running costs.

Campbell Martin: How have we reached this point? How have things got so bad?

Pat Glancey: No one is listening. In all honesty, when we talk about logistics, we are talking about, for example, Rab Howie picking up stuff, taking it to Stewart Milne's place to be built and then moving it back out again. That process just went on and on. However, Europe is now moving in. A foreign haulier can come into the country with 1,360 litres of fuel in his tank. As a good heavy goods vehicle will do eight miles to the gallon—not eight miles to the litre—that haulier will be able to do something like 2,400 miles carrying out domestic work up and down the country. When we average that out using yesterday's costs, the costs for that foreign haulier are 17.3p a mile cheaper than they are for the man in Scotland.

People say that there are different tax regimes on European hauliers, but that is irrelevant to the man who wants his stuff moved from A to B. All he will see is that, at £360 for a couple of days' work, Joe Bloggs from Belgium can move it more cheaply than Rab Howie of Aberdeen can. That is a severe difference. Rab has already told you about the amount of jobs that are moving away. We are talking about big companies. We want to keep the jobs in Scotland. However, if Rab wants to tender for other work, someone will undercut him.

We have to ask why the situation in this country is so advantageous to foreign hauliers. In 1996, 50 per cent of the vehicles going through the ports were foreign and 50 per cent were from the UK. In 2004, the number of vehicles going through the ports increased by 6 per cent, but, by then, 75 per cent of the vehicles were foreign and only 25 per cent were UK registered. Why are those hauliers cutting our throats? We want Stewart Milne to stay in the country and keep Rab Howie and the other Scottish hauliers in business, but something has to be done. That is why everyone in the industry, especially those involved in livestock haulage, are going mad with the amount of legislation that faces them. Livestock hauliers in Scotland are very professional, as they showed during the foot-and-mouth crisis. We need to consider all aspects of the industry.

Campbell Martin: Thank you.

Pat Glancey: Sorry—I was preaching.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning, folks. You referred to the change in recent years from a 50:50 split between foreign and UK-registered vehicles to a 75:25 split. Do you think that that has anything to do with British hauliers registering their vehicles on the continent?

10:15

Pat Glancey: The figure that I gave came from a Department for Transport report that was published on 18 August and which is available on the DFT's website. Few British hauliers register abroad. Prior to the fuel disputes of 2000, when the chancellor increased the road fund licence, it was advantageous for hauliers to flag out, as it is termed, by going to the Republic of Ireland, France and so on to register their vehicles. However, once the Governments of those countries got themselves up and running on that situation, they started to impose taxes, tachographs and paperwork on the companies that had registered there. The majority of those hauliers have now moved back here and few hauliers are registered abroad. However, some companies have moved their head offices abroad

and retained only a satellite station here. That has to do with the cost of running international companies.

John Farquhar Munro: So the 75:25 split has little to do with British hauliers registering their vehicles abroad.

Pat Glancey: Yes. The days of flagging out to save money are long gone.

John Farquhar Munro: You referred to the working time directive, which is of concern to everybody who is involved in transport, as well as to other industries. How much more restrictive will that directive be than the current drivers' hours regulations that govern the tachograph? Will there be a big reduction in the hours that a driver can operate?

Pat Glancey: The current situation is that drivers must log almost every minute of their working time, including other work that they do, driving time, periods of availability and breaks or rests.

John Farquhar Munro: That happens on the tachograph just now.

Pat Glancey: Yes, but the drivers are governed by the tachograph rules, which means that they can drive either for a maximum of 56 hours in a week or for 90 hours over a fortnight, which is a rolling fortnight. Under the working time directive, drivers can work only for a total of 48 hours in a week. The time is worked out over a 17-week period and it must come out even. However, if they get a workforce agreement, the period can be 26 weeks.

The forestry industry has been severely hit by the working time directive, because its drivers load and unload themselves. They do not have periods of availability as such. They previously worked according to the tachograph regulations, but they must now work according to the working time regulations, which take a lot of time from them. As you may know, one of the vehicles used in forestry has a grab crane on the back, which means that it can load and unload itself. Rab Howie will tell you that the long-distance boys are also not making it.

John Farquhar Munro: Apart from the plea from the haulage industry, drivers of heavy goods vehicles have come to me and explained that they have had a drop in earnings through having to comply with the working time directive. That is quite significant.

Pat Glancey: It is. By the same token, a haulier has no choice but to comply with the law. They still pay the driver on the total duty time, but that is reduced overall because of the new working time regulations. It is only now that the regulations are in force that drivers are seeing their pay packets going down.

John Farquhar Munro: So you think that a wide range of issues is affecting the haulage industry.

Pat Glancey: Yes.

John Farquhar Munro: You said that that has been happening over many years and I appreciate that. However, it is not only in north-east Scotland that it is happening—it is pretty widespread.

Pat Glancey: It is very widespread.

John Farquhar Munro: So operators now have to cope not only with the high cost of fuel, but with the working time directive. It seems to me that that is a terrible barrier for any haulage company that wants to keep going and make a profit.

Pat Glancey: It is. Just now it is difficult to make a profit. The majority of hauliers—we discussed this issue before we came into the meeting—buy their fuel through fuel companies. Those fuel companies take the money out of the haulier's bank on a two-weekly basis. If the haulier does a job in the first week in September, he will most likely—if he is lucky—get paid in the last week in October. If he bought the fuel that he has used at the beginning of September, the fuel company will take that out of his bank on about 14 September. He pays for the fuel before he gets paid.

Given the high cost of fuel now and the state of the industry, fuel supply companies are reluctant to increase the credit terms for hauliers. Someone who has the possibility of drawing on £12,000 of fuel might try to operate his business over five and a half to six weeks so that, by the time he draws the fuel and pays for it, he is starting to get paid, but that period has been reduced to about four weeks and two days. What does he do for the other week and three days when he has no money to go out? That is the grave situation that exists.

As fuel is at least 40 per cent of hauliers' overall costs, they do not have the money to increase drivers' wages; fuel is the highest on-cost to them. That is a great burden on the hauliers, because they value their drivers. A lot of drivers are leaving the industry because of the rates of pay.

Rob Howie: I will give a practical example. I ran off a set of management accounts yesterday—we are 11 months into our financial year. Last year, we turned over—I will make no secret of it—just over £2 million and the fuel bill was £550,759. To date, we have turned over roughly £2 million again with the same vehicles and the fuel bill was £605,226. It has cost me some £54,460 more to do the same work with the same vehicles this year than last year. That money should have been going to drivers as a wage increase rather than to the chancellor. It is no wonder that we cannot pay our drivers a decent wage—the money is all being swallowed up. That is the situation in practical, black-and-white terms.

John Farquhar Munro: I understand what you say. If it is any consolation to the hauliers in the north-east, operators in the north-west of Scotland tell me that last year, on top of all the costs of running the vehicles, two hauliers paid in excess of £1 million pounds each in ferry fares to the Western Isles. That burden does not fall on hauliers in the north-east, but I appreciate the situation that you are in.

Pat Glancey: Those issues must be addressed. Ferry fares to the islands are extortionate. One haulier in Skye paid about £12,000 a week in tolls for the Skye bridge before the tolls were abolished. That is more than two wages. People do not realise the effect of all those little add-ons.

John Farquhar Munro: That was money up front.

Pat Glancey: The issue is the payments up front before the money comes in. We urge the committee, while we still have a haulage industry in Scotland that supplies the manufacturing base and keeps work in Scotland, to examine the issue and to hold an inquiry. We have people from all walks of life—manufacturers, timber suppliers and hauliers—who are more than willing to open their books and show the committee what is happening. This is not a load of hauliers whingeing. Those boys are no longer holding on by their fingertips; they are now down to their nails and they cannot hold on any longer.

John Scott (Ayr) (Con): You talk of work moving down south. Is that because of haulage costs or is it because there is greater market access down there? What is the controlling factor?

Hamish Morrison: Haulage is a big part of the key investment decisions that we are making. It is hard to plan a major investment and make it in Aberdeen, based on what the haulage industry is going through and its viability in the future. The road miles that we have to travel to get to our market are massive. Given the product that we are developing, we expect our haulage needs to quadruple over the next four or five years. Our haulage needs and our costs will both increase. It is hard to make an investment decision without considering the benefits of moving our factory to England.

John Scott: From what Mr Howie said, the year-on-year increase in haulage costs, for this year at any rate, is about 20 per cent. Is the increase enough to deter you from staying in Aberdeenshire?

Hamish Morrison: Yes. We have to compete down in England with local English manufacturers. We have to try even harder to conceal the haulage costs within our product costs to compete with an English competitor. We want to maintain competitiveness in our Scottish product, but it is

becoming harder by the week to do so. The investment decision to go south to get closer to the market is becoming easier to make.

John Scott: I do not want to make a political point, but given that the First Minister has announced that Scotland will regain parity with England in terms of business rates, are there other issues affecting your business that might drive you to move south that the Scottish Parliament can address?

Hamish Morrison: Yes. We are a Scottish company and we believe in Scottish products. We use a lot of forest products from our partner industries that are based in Scotland. I am thinking of major companies such as James Jones and Norbord, which use local, sustainable forestry products. We would like to stay where we are so that we can access that product, but we are faced with the decision whether to move our manufacturing base to England. We cannot resolve the matter at the moment; we are sitting on the fence wondering what direction to take. It is not just my industry that has to get goods to market; other industries in Scotland are in exactly the same situation.

Ms Sandra White (Glasgow) (SNP): Good morning. From listening to your evidence and reading PE876, I think that it is obvious that you face unfair competition, particularly from Europe. Also, we know that the price of fuel will go up because of what is happening in Kentucky and Iraq and elsewhere. Do you want the inquiry that you spoke about to look into issues such as unfair duties on fuel? If so, that would have to involve Westminster and the European Parliament.

We understand that you have had no information on the impact that the directive would have in Scotland. Have the Government and the European Parliament taken the situation in the UK as a whole and not looked at the special geographical circumstances that apply in Scotland? You mentioned the transportation of medicine, fish and agricultural products. The regulations that cover those goods seem quite harsh. Do other countries have the same regulations?

Pat Glancey: I will start with the last question. On 24 December 2004, the European Parliament agreed to upgrade the regulations on the movement of livestock to cover the type and construction of livestock vehicle that can be used, the on-board feeding and watering facilities, the duration of journeys, driver training and the certification of drivers who carry livestock for journeys of more than eight hours.

As I said, livestock hauliers in Scotland are very good, as are the majority of hauliers in the United Kingdom. However, the regulations were written to

catch the boys in the new European countries who do not do anything. Their vehicles are appalling and not at all clean. Their drivers are not as professional as ours and drive for hours on end. They have no regard for the legislation that is in place.

The new legislation is to be implemented on 1 January 2007. It is now the middle of September 2005 and the Scottish Executive Environment and Rural Affairs Department and the Department for Environment, Food and Rural Affairs are talking about how to bring forward that legislation. That means that the livestock drivers will have to be certificated, trained and assessed and ready to go on 1 January 2007. We ask ourselves why. Our boys are good. The vast majority of professional livestock hauliers came through the foot-and-mouth outbreak. The Vehicle and Operator Services Agency and trading standards will tell you that we do not have any problems with animal health and welfare. However, because about 60 per cent of Europe has a problem with the movement, treatment and control of livestock, we are being faced with these measures.

We have to look at the working time directive. Livestock men have to take account of drivers' hours, animal health and welfare, the Welfare of Animals (Transport) Order 1997, and Council regulation 1/2005, which comes into force in 2007. They have a big book of regulations to take account of.

When Rab Howie moves stuff down south for Stewart Milne, he has to ensure that he has two vehicles, because moving a timber frame for a house requires two vehicles. It is no use one vehicle arriving two hours after the other. The timing and the calculations have to be worked out.

I am sorry, but I have forgotten your other question.

10:30

Ms White: Should the inquiry examine unfair competition arising from fuel costs in Europe?

Hamish Morrison: I would like the inquiry to focus on the impact of haulage on the competitiveness of industries such as forestry. We use forestry products, but that industry is being crucified. It is a key driver of the Scottish economy, but the impact of haulage means that it is going in the wrong direction.

Ms White: You know everything. Your evidence has been fantastic. You mentioned new regulations on the haulage of livestock. Has the Scottish Executive or the British Government given any grants to upgrade lorries?

Pat Glancey: No. Even during the foot-and-mouth outbreak, when our colleagues in the

agricultural and farming industries were given compensation, no grants were made available to the haulage industry. A training directive is going through Europe just now—Rab Howie's face fell when I said that. The directive is supposed to come into force in 2007, but with a bit of luck it will be put back until 2009. It lays down that drivers will have to receive five days' training over a period of five years. It is not one day here and there; it has to be uniform training on a personal development record to upgrade drivers' skills and bring them up to date with legislation. The burden of that will fall on hauliers.

Rob Howie: I would like to make an important point. To hold an operating licence a haulier has to be of sufficient financial standing. For their first vehicle they need to have £6,200, and for every subsequent one they need £3,400. A company of our size needs to have a £70,800 pot of money that is readily available, and not tied up in stocks and shares, to comply with the operating licence regulations. Given current financial constraints, such as the cost of fuel, I will stick my neck out and ask how many hauliers have such pots of money sitting on the sidelines. I suspect that very few do.

Jackie Baillie (Dumbarton) (Lab): I certainly do not want you to be placed at any further competitive disadvantage because of the distance that you need to travel to get to your market and I do not dismiss what you say about fuel, but I am conscious that you are in discussions at Westminster level, and I encourage you to continue with those.

I am interested in pursuing with you the Road Transport (Working Time) Regulations 2005. Let me play devil's advocate for a minute, because it is important to give you an opportunity to knock on the head any suggestions that might arise, such as the suggestion that drivers are currently working all the hours under the sun to make up a decent living wage. Some of the things that you said made me slightly nervous that that might be the case. First, I give you the opportunity to refute that.

Secondly, I am concerned that in fact what is behind some of the changes is safety, for your drivers and for other road users. If you were to rewrite the regulations—they currently state that there should be an average 48-hour week, and a maximum of 60 hours worked in any single week and 10 hours in any 24-hour period overnight—what would you say was a more realistic set of time constraints to impose on the industry, for the average, the single week and the overnight limit?

Finally, I want to check that I have picked you up right. Did you say that those constraints are being reviewed by the DTI? If so, when, and will you be involved? Would it be useful for the committee to

send a signal about measuring specifically the Scottish impact of the regulations, because of your distance from the market?

Pat Glancey: I will start with the final point and work my way back. We would certainly welcome any representation that the Scottish Executive might make to the Westminster Government. The DTI stated that it would examine the regulations a year down the line. It cannot really assess them until they have been running for a period of time and it was only in April this year that they came into force.

I am sorry if I have misled you into believing that drivers are running round the clock. I assure you that they are not. The vast majority of drivers are professional, as are the vast majority of hauliers, and they stick to the drivers' hours and tachograph regulations that are in force. I looked out some documents that refer to accidents with HGVs. The Department for Transport's August 2005 report on work-related road traffic accidents states:

"However, over half of LGV-related fatalities were actually caused primarily by other drivers."

In every industry and every walk of life there are people who look at the rules to see how they can get round them, but the vast majority of hauliers who are trying to make a living are sticking to the drivers' hours and tachograph regulations. No doubt the traffic commissioner's report for last year, which is due out shortly, will show how many infringements there are.

We do not see a problem with the drivers' hours and tachograph regulations as they stand just now. Of course, they will be examined, because the digital tachograph will soon be introduced. It should have been introduced on 1 August last year. It has not come in this year, but it will be introduced shortly, especially for all new vehicles, after which there will be a timescale for when it must be fitted to all vehicles that are on the go. At the moment, drivers can have breaks of 11 hours, but a digital tachograph will not be able to give 11 hours, 15 minutes or half an hour as a percentage of 24 hours, so the DTI will look at changing drivers' hours then, when the changes come in.

The way the drivers' hours and tachograph regulations have been running has been checked by VOSA and by the police and it is fine, and hauliers can lose their operating licence if their drivers are breaking the law. That in itself—the threat that someone's livelihood can be taken away from them and that they can be prosecuted—should be enough, and that applies to drivers as well. We do not see anything wrong with the drivers' hours and tachograph regulations, do we, Robert?

Rob Howie: Not at all.

Jackie Baillie: Thank you. That is helpful.

Helen Eadie (Dunfermline East) (Lab): I apologise for coming in after the meeting had started, but I have heard a considerable amount of what has been said. Like Jackie Baillie, I would like to play devil's advocate for a moment. You might assume from the questions that I ask that I am hostile, but I am not. I am open to be persuaded about the arguments.

First, we have known in this country for the past 12 years that the European working time directive was going to come into force. What steps has the industry taken during those 12 years to plan and prepare for the changes? Whom has the industry tried to persuade that the directive would have an adverse effect?

Secondly, your petition mentions the fact that the issues have been discussed in Brussels

"with members of the European Parliament's Transport and Employment Committee, as well as Commission officials."

What reaction has there been at that level?

Thirdly, playing devil's advocate again, I know that some people in this country argue that it would be better for us all if we moved heavy goods off the roads and on to the railways to reduce the punishment to which the roads are subjected by all the massive 40-tonne vehicles. As was rightly pointed out, heavy goods vehicles are almost like a train on our motorways because they are nose to tail.

Will you comment on those three points?

Pat Glancey: HGVs represent only 13 per cent of the traffic on all roads in Scotland. That figure was borne out by what Professor Alan McKinnon of Heriot-Watt University said at the freight strategy for Scotland seminar that took place in August this year. We feel that hauliers get very bad publicity because of the size of heavy goods vehicles. However, in all honesty, cars make up the vast majority of traffic in Scotland, as members will be aware. Hauliers account for only 13 per cent of the traffic on all roads.

As Rab Howie, who is one of our members, will confirm, since the EU working time directive was introduced almost four years ago, the Road Haulage Association has lobbied for hauliers, or mobile workers, to be treated separately from the main directive. We have lobbied MSPs and MEPs to bring light to the situation in Scotland. Although Rab Howie and Hamish Morrison represent people who live predominantly in the north of Scotland, the directive affects all hauliers. We do not see how anyone could have understood the full impact of the directive until it came into force. We will continue lobbying.

If the Parliament undertakes an inquiry, we would like it to look at a cross-section of the industry: livestock hauliers, general hauliers, timber hauliers, tipper operators—I mention those specifically—and fish operators. At one time, operators delivering fish from Scrabster, Peterhead or Fraserburgh were able to have their stock processed and loaded during the night and then take it away down the road. However, once the working time directive came in, if work was started during a block of time from midnight onwards, the workers were allowed to work only X amount of hours. To avoid the workforce being cut because they were working in that core period, the processing was moved to the top. That has meant that hauliers cannot now lift the stuff until later in the day. Therefore, whereas people did not use to see vehicles taking fish to markets in England because the goods went during the night, they now see them.

You suggest that we should take goods off the roads, but when are we supposed to do that? Under the road transport directive, if people work during the core period between midnight and 4 o'clock in the morning, their hours are cut because they are deemed to be night-time workers. People want to work during the night, but they are not able to do so.

Hamish Morrison: On that point, our company has explored rail transport and shipping from Aberdeen, but such options are simply not viable for shifting the product that we make to the marketplace to which we need to move it. We deliver to every building site in the United Kingdom, but the product cannot arrive by railway at every building site in the UK. The changeover time that is involved in taking it off a lorry to put it on to a train, from which it would need to be taken off again and taken to the site, makes the idea totally unviable. People would just use our competitors on the doorstep and we would lose that business. We have explored the option of shipping housing materials from Aberdeen harbour to London, but that is simply not viable. Road haulage transport is currently the only viable way in which can get our product to market. That is where we stand.

Pat Glancey: The latest issue of "Scottish Transport Statistics", which was published on 26 August 2005, shows that UK HGVs in Scotland lifted a total of 173 million tonnes of freight in 2004. The total amount of freight lifted by rail in 2003-04 was 8.3 million tonnes. We do not have a conflict with rail freight transport because hauliers will still have to take the freight to and from the railhead. However, rail is not flexible enough to meet customers' demands on when the freight has to be delivered.

10:45

Helen Eadie: My question was really directed at companies such as Caberboard in Cowie, which has heavy goods vehicles weighing more than 40 tonnes leaving every 30 seconds throughout the year. There is no break; they work through holidays such as Christmas and new year. Given that there is a railhead nearby, that is the kind of company that I would have thought would benefit from using a main depot where the freight could be transferred from rail to the road.

Hamish Morrison: I agree that that company's product might be more viable for rail transport. That question would have to be put to the company itself. Our product is not suitable for such a method of transport. There are products that are suitable and those that are not.

Helen Eadie: If I might make a comment, it serves to illustrate that there are companies for whom such a method of transport is viable—

The Convener: We are not here to examine whether one company or another should do one thing or another. We must come to a conclusion.

Fergus Ewing has joined the committee. Fergus, do you have a question or a point to make before we come to a conclusion?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I have two questions and a brief point to make.

One aspect that has not been covered yet is the impact on the need to recruit more drivers. I believe that Mr Howie's accountant has done an assessment of how many more drivers he will need to take on in order to meet the requirements of the working time directive. What did your accountant conclude? What experience have you had of trying to recruit more drivers locally? What advertising have you done and what responses have you received so far?

Rob Howie: The accountant came to the conclusion that we would need another eight drivers to do the job that the original guys are doing.

We have put adverts in the local press and on local radio many times and we did not get one reply. It has reached the stage that we have had to employ a guy from Latvia. He started with us six weeks ago and other hauliers are very interested in how he is shaping up. I had a conversation with Sandy Bruce, a major haulier in Aberdeen, and he is going to Poland with a delegation to see whether he can recruit drivers. Craibs, another haulier in Aberdeen, has three Poles working for it and one or two of the fridge operators are employing Ukrainians. They are having to go right to the far side of Europe to get drivers. The local driver pool has virtually dried up. It is ironic that a

driver who has been with us for many years has decided to emigrate to Canada and is going off on 10 October to drive a lorry in Alberta. What is going on?

Fergus Ewing: The Scottish Parliament has power to help with the issue of recruitment. Could Pat Glancey explain what costs are involved in training someone to become an HGV driver? Who meets those costs and do you think that the Scottish Parliament could provide assistance in resolving that situation?

Pat Glancey: Until almost two years ago, no funding was available for driver training. The road haulage modernisation fund made some funds available and, through skills for logistics, it introduced a training scheme for young drivers under the age of 25. Participants have to be employed in the industry and they have to go through driving training and go on to obtain a Scottish Qualifications Authority national qualification.

The problem really arises with the insurance companies—I am sorry; let me go back a bit. Training a driver without being given funding will cost a company something in the region of £2,700 to £3,200.

Fergus Ewing: I would like to make a brief comment.

The Convener: Okay—as long as it is brief.

Fergus Ewing: I have been talking in the Parliament about the costs of fuel and fuel tax since shortly after I took my oath, so I will not repeat my thoughts here, but I support the petitioners in their move to have the Parliament carry out an inquiry into freight policy. The Local Government and Transport Committee may be willing to do that. Although some of the issues are plainly reserved to Westminster—whether we like it or not—it has arisen through members' diligent questioning that the Parliament could consider a number of matters, such as the extent to which road traffic can be transferred to rail, training costs, recruitment, the use of the mobile unit that I believe will be available shortly, freight facilities grants and Scotland's input on the livestock and training directives that are being considered. Above all, we could measure the impact on the whole economy that the changes are having. The Local Government and Transport Committee could consider the whole picture of freight, which includes road, rail, ferry and air. I hope that all members share that sentiment.

The Convener: Let me draw the discussion to a conclusion and get some recommendations for what we should do with the petition. The convener of the Local Government and Transport Committee, of which Fergus Ewing and I are members, has told me that he is aware of the

petition and that he would like it to be referred to his committee so that it could consider conducting an inquiry. That committee has yet to agree its work plan, but the convener sees the matter fitting into its remit and as something that it should consider. Therefore, we should refer the petition right away.

We should also write to the Scottish Executive to get its overview of the points that the petitioners have made this morning. We should also write to the Federation of Small Businesses in Scotland and the Scottish Council for Development and Industry. Do members have any other recommendations?

Helen Eadie: Perhaps we ought to approach the Transport and General Workers Union, which obviously has a major interest in the matter, given the employment issues that have been raised. Given the sustainable development aspect, it might also be useful to include TRANSform Scotland.

Ms White: I agree with the recommendations. The petition should go to the Local Government and Transport Committee, which is the best body to carry out an investigation. I am sure that if an inquiry was included in that committee's work programme, it would seek evidence from the unions and various other bodies.

The Convener: If we write to the Executive and other bodies, we will forward the replies to the Local Government and Transport Committee. We will also let that committee know that we intend to refer the matter on to it.

John Scott: Much was made of the forestry industry's difficulties. I do not know the name of the group that represents the forestry industry in Scotland, but perhaps we could write to it, too.

Hamish Morrison: The Scottish forest industries cluster represents the forestry industry. It could put forward a spokesman to represent the industry.

John Scott: I also suggest that we write to the Confederation of British Industry, to get an overview.

The Convener: Are members happy with the suggested course of action?

Members indicated agreement.

The Convener: I thank the petitioners for their petition. Obviously, we will let them know the content of the responses from the various organisations and get their comments on them. We will keep a dialogue going on the issue.

Coastal and River Erosion (National Strategy) (PE878)

The Convener: Our next petition is PE878 by James A Mackie, which calls on the Scottish Parliament to urge the Scottish Executive to consider the need for a national strategy to address the impact of coastal and river erosion in Scotland. Before the petition was formally lodged, it was hosted on the e-petition site where, between 10 May 2005 and 26 August 2005, it gained 329 signatures. The usual e-petition briefing has been circulated for members' information. In addition, members will wish to note that the committee has received a further 182 signatures in hard copy from the Kingston-upon-Spey area.

James Mackie, accompanied by John Fettes, is here to make a brief statement to the committee in support of his petition. I welcome them both. You have a few minutes to speak to us then we will ask questions and discuss the issues that you raise.

James Mackie: Convener, ladies and gentlemen, thank you very much. Some of you who know the other petitions that I have submitted in the past are probably wondering why I am involved with this issue. Garmouth and Kingston-upon-Spey are two villages in Morayshire, where I was brought up. My mother and relatives still stay there and it is my hope that I might retire there one day, if I ever get the chance.

I have over 50 years' knowledge of the river there and I have seen the damage that has gone on. As my family are there, I have up-to-date knowledge of what is happening. The situation that we have now also occurred when I was about 10 or 11. My father and I stood and watched two houses being washed into the River Spey because nobody had bothered to look at the erosion and the way in which the mouth was blocked. For some time, the salmon fishers controlled the river and it went from there.

I discussed the petition with John Fettes who is a farmer in the area and whose land is being eroded by the River Spey. He is also chairman of the local amenities association. I was aware that the association had been talking to local councillors and there appeared to have been no movement whatsoever. Jamie McGrigor and Mary Scanlon had been asking questions, but nobody seemed to be taking an interest in the situation.

Since the petition was lodged we have learned quite a lot, in that Moray Council is responsible for looking after the river mouth and the coast. The other matter that has come out of the woodwork is that coastal erosion is linked to flood prevention by the Government in national flood prevention schemes. We are now aware that the Executive will pay an 80 per cent grant for any scheme. Our problem is that because Moray has so many major

rivers coming through it, Moray Council has estimated that the cost of implementing current flood prevention schemes—plus looking at coastal erosion and the problem at the mouth of the Spey—would be at least £160 million. Unfortunately, the Executive's annual budget for the whole of Scotland is only £89 million, so that is a major problem.

The erosion, particularly in tidal areas, is nothing new to me. As far back as 1985, I was trying to resolve issues in the Forth estuary. If members do not know the Forth, I can tell them that most of the banks from Stirling downstream almost to the Forth road bridge are levees. Once those start to go, there will be major flooding. In the past 10 days, we have all seen the devastation that mother nature can bring when a river bank goes. The figure that was allocated for levee defences there was spread out over time, but after hurricane Katrina, we now know how much extra that will cost and the figure is closer to \$1 billion.

The other problem that we have encountered in Garmouth-Kingston is that the area contains sites of special scientific interest. Even when a potential breach is spotted in the existing banking and reinforcements, the landowner cannot simply go and repair them. If a site is an SSSI, the Scottish Environment Protection Agency, Scottish Natural Heritage, the local council and a host of other bodies have to come in. That means repair by committee meeting. In one situation a few years ago, when it became clear that a river was going to burst through, nobody would make a decision on the day. The decision took 10 days and a lot of damage was done.

That is an overview of where we are at the moment.

11:00

John Scott: This matter has been addressed by the Scottish Parliament quite seriously. The flooding issues advisory committee has been set up, as has the national flooding framework. What do you feel ought to be done in addition to that? There has been much debate in the Parliament on the issue over the past three to five years. Are you seeking more funding or more regulation?

James Mackie: There is a combination of factors. There has been plenty of talk about the subject, but action—if any is taken—is slow. In Morayshire, the moneys that are available are far too little. We are bombarded on a daily basis with information about global warming, sea levels rising and higher rainfall, which must be taken into consideration.

The current experience in Moray is that the official bodies that are supposed to protect the environment are, in fact, creating headaches.

Despite agreement that there is a need for change, actions cannot be taken because they will upset the environment. Gravel has been washed down by the Spey for millions of years, and that will continue; all we are asking is that it be got out of the way. By protecting a gravel bank in the middle of nowhere that grows nothing, the official bodies are putting at risk an historic village and salt marshes. The attitude of some bodies needs to be examined, and their powers in such circumstances need to be restricted.

John Scott: Are you aware of specific funding applications that have been approved by local authorities but have then been refused?

James Mackie: None has been refused at the moment. However, there is a particular difficulty in Morayshire with the number of projects and areas in which there are problems. That includes Elgin, Forres and Lhanbryde village. Moray Council has to submit business plans to get the 80 per cent grants from the Executive. The council estimates that it needs £160 million to do the work. If the Executive's annual budget for the whole of Scotland is only £89 million, that means that there will be major deficits. If small pockets of money are allocated one year after the other, by the time that the whole lot gets paid so much bloody damage will have been done that the costs will end up being a lot more.

Jackie Baillie: I am unclear about this, Mr Mackie. Has the council made an application or had any discussion on the matter with the Executive, as far as you are aware?

James Mackie: The council is aware that there is a restricted fund and that it must raise 20 per cent of the costs from its own area. It needs to consider the worst-case scenario first. The council has a project in place for Elgin and has started doing work there. There is a separate project at Lhanbryde. Those projects are small, but their total value is £160 million.

Jackie Baillie: I am still unclear. Has the council actually approached the Executive and held discussions?

James Mackie: My understanding is that the council is applying to the Executive for small pockets of money. It is aware that the Executive has a small sum of money—£89 million for the whole of Scotland. The council is identifying the worst-case scenario and resolving that first. It knows that it cannot apply for the whole sum, because it ain't gonna get it.

Jackie Baillie: Is it not the case that, because the council must raise 20 per cent, it is limiting itself, rather the Executive limiting the council's actions?

James Mackie: There are limits at both ends to what the council can do. There is not much heavy industry up there in Morayshire. A big part of its economy derives from the Royal Air Force base, for as long as that lasts. The issue is indeed about raising local taxes, but it is also about the amount of money that is available from the Executive.

Helen Eadie: It seems to me that you are seeking more regulation. The great majority of land in Scotland—including rivers and coastal land—is privately owned. I do not think that you are suggesting that the Scottish Executive should pay to repair or to have restored coastal areas that are in private ownership. Should you or I, as taxpayers, pay for Lord Wemyss to have his coastal area protected?

James Mackie: That is a very narrow attitude. Legislation is in place under which the owner of a river is duty bound to control it to prevent river damage. As a result of my petition, the Garmouth and Kingston golf course is taking legal advice and pursuing the Crown Estate, which owns the river that runs through it. Under current regulations, local councils have a responsibility for controlling coastal erosion. Much of the coastal erosion that is happening around Scotland—especially in Orkney and Shetland and on the west coast and the machair—is on land that is owned by the Crown Estate. As members probably know, the Crown Estate is Crown property that was handed over to the Government. The revenue from that land goes into the Government's coffers, so why should the Government not pay to control erosion there?

Many of the communities that are under threat are well populated. Land was reclaimed, often from bogs and marshes, and that allowed people to come in from the country and live in communities. We are trying to protect established settlements that have been in place for a long time, but which are threatened as a result of weather changes, global warming and uses such as overdraining of Highland lands to put in trees. We all pay taxes and we should get something back. Many landlords spend millions of pounds on restoration of the land and flood protection.

Helen Eadie: I do not think that you have answered my question. I asked whether the taxpayer should pay for coastal erosion in areas that are owned by private landowners.

James Mackie: The coast right up to the high-water mark is owned by the Crown Estate. It also owns the sea.

The Convener: Jamie McGrigor has joined us, because he has an interest in this issue.

Mr Jamie McGrigor (Highlands and Islands) (Con): As an MSP for the Highlands and Islands and someone who has experience of rivers over a long period, I would like to make a couple of quick

comments. In view of recent world flooding events and worries about global warming, this petition is important. I am glad that its scope has been widened from Mr Mackie's initial thoughts, which were to have a petition that dealt only with Garmouth and Kingston and the mouth of the Spey. Events all over the place—starting in the Uists, where floods last winter caused significant damage to the machair and the causeways—show that coastal and river erosion is a major problem. There is no way that the £89 million that happens to be in the kitty will be enough if there is a major event. Some thought must be given to how coastal properties, villages and towns will be protected in the future, if sea levels start to rise.

Kingston is an historic town. Enormous damage could be caused to it if the gravel spine there were to break. Every year, boulders flow down rivers such as the Spey in floods—there are changes all the time. For many years, there were salmon netters at the bottom, who kept the mouth of the river clear so that the salmon could come up. That allowed the river to flow out and was the reason for the location of the town of Kingston. The town was not affected by flooding, because the river ran clear through. However, because the salmon netters have not been in place for years and there has been a build-up, there is now a real danger to towns adjoining river mouths.

The situation is made worse by the seeming policy of SNH and other bodies not to allow anyone to do anything with the rocks and boulders at the bottom because that might be detrimental to the environment. Flooding in a bird sanctuary and the town of Kingston would obviously be considerably more detrimental to the environment.

Not enough has been done nationally to examine the possible effects of the coastal erosion and flooding that are going on. We are not well-enough prepared, which is why the petition is good.

The Convener: What do members suggest we should do with the petition?

Jackie Baillie: I confess to being slightly confused. In response to a parliamentary question, the then Deputy Minister for Environment and Rural Development said:

"The Scottish Executive has, to date, met all requests from local authorities for funding to support the construction of approved coast protection schemes."—[*Official Report, Written Answers*, 8 December 2004; S2W-12530.]

Before we write to all and sundry, I am keen to ask the Executive whether Moray Council has approached it and to write to that council; that issue is at the heart of the petition. If that dialogue has not happened, the petition is probably ahead of its time.

Ms White: I, too, picked up on the point that Jackie Baillie made, which is narrow. Jamie McGrigor made the subject much wider. I agree entirely with Jackie Baillie. We should write to Moray Council to find out whether it has applied to the Executive, because whether it has done that is unclear in our papers. However, not just that area is affected—the scale is wider, as Jamie McGrigor said, so we must ask the Scottish Executive for its views on the petition and on the matter overall.

The Convener: Are members happy with that?

James Mackie: May I make a brief comment on those points?

The Convener: Yes.

James Mackie: Moray Council has applied for funding for the projects, but because it knows that the fund is limited, it is not applying for everything at once.

Another problem is a dearth in Europe of experts in coastal and river erosion who can examine the situation and draw up a scheme. A combination of factors is involved. A plan can be produced only if experts are available, but experts cannot be obtained. That is a hidden problem.

The Convener: I hope that the responses that we receive will allow us to investigate that aspect. It is worth making the point.

John Scott: Whom will we write to? Will we write to the Scottish Executive?

The Convener: We will write to the Scottish Executive and Moray Council.

John Scott: Will we write to SEPA?

The Convener: We will wait until we receive the other responses. Jackie Baillie's point was that the petition appears to have had its beginnings in an issue in Moray, although it brings into play discussion of the wider issue of coastal erosion. However, unless we identify the points that Mr Mackie made about what underpins the petition, we cannot widen the subject. We must establish what drives the petition. We will eventually have to contact several bodies, but we must have a base point to provide the ground from which to proceed.

John Scott: I take your point, but we will have to write at some point to ask the flooding issues advisory committee whether it is content with the planning that has been put in place or whether it has plans to do anything else. Perhaps that is for further down the track. I agree with Jackie Baillie that the petition is perhaps ahead of itself.

Jackie Baillie: In the interests of compromise and given that the flooding issues advisory committee was established by the Scottish Executive, perhaps we could ask the Executive to

speak to that committee in formulating its response.

The Convener: Okay. We will let Mr Mackie know what the responses are and take it from there.

Bankruptcy Law (Sequestration Recall Process) (PE865)

11:15

The Convener: Our next petition is PE865, by Edward Fowler, which calls on the Scottish Parliament

“to investigate the sequestration recall process and consider amending the law to allow the right of appeal for those made bankrupt by mistake and that all such appeals should be heard by a Sheriff.”

Edward Fowler will make a brief statement in support of his petition, after which we will have a discussion on the points that he makes.

Edward Fowler: My petition seeks to allow a person who has been sequestered in error to go back to a sheriff court to rectify the error and have the sequestration recalled. That is allowed in England, but it is not allowed under Scots law.

I am speaking to you about a system that allows people to be made bankrupt by mistake but makes it impossible for the bankrupt to have the matter recalled to court. In Scotland, the only redress is to go to the Court of Session in Edinburgh. That is impossible unless one has substantial amounts of money, which a bankrupt does not have. It is impossible to get help through legal aid. I have been trying to do that for two and a half years.

Using the Freedom of Information Act 2000 I found out that in 2002 and 2003 there were no cases in which legal aid was granted for recall of sequestration. In my case, there was a mistake in the procedure when the petition was raised. Errors were made and the court was given the wrong information. Two and a half years later, the court is still unaware that a mistake was made. Why is it so difficult to return to court and correct the mistake? I believe that my case proves that our system of justice has given me no right of defence and that justice has been denied to me.

My view of the VAT people is that the interests of the state are everything and the interests of the individual are nothing. I do not exist as a person, which is why—

The Convener: Mr Fowler, if you are finding it difficult to make your statement would you prefer us to ask some questions? You have given us a good briefing and I think that members understand the subject. To be fair to you, it might be easier if you were to answer the committee's questions rather than try to make the statement.

Edward Fowler: Yes.

Jackie Baillie: When I read the papers about your petition, I felt a huge degree of sympathy for you but also a deep sense of injustice about what you experienced. We have a helpful note that says that the parliamentary ombudsman has decided to launch a full investigation into HM Revenue and Customs. Will you update us on what has happened since then?

Edward Fowler: I have heard nothing since then. I was told that it could take a number of years and that it could be a long time before we heard anything. I do not know too much about it.

Jackie Baillie: Obviously, you applied for legal aid. Can you remember the grounds for refusal?

Edward Fowler: I have never been refused legal aid for advice. I am allowed that, but not legal aid to recall the matter to court. Legal aid asked the permission of the insolvency practitioner and the VAT people and they refused.

Jackie Baillie: They have an interest, of course.

Edward Fowler: Yes. The insolvency practitioner said that he did not want to allow it in case I sued him at the end.

Jackie Baillie: It is not surprising that he said no, then.

Ms White: Good morning, Mr Fowler. Like Jackie Baillie, I read the evidence that you provided and I find it hard to believe that this could happen to anyone without their knowledge. Are you saying that people turned up at your door without your prior knowledge and that that was deemed lawful by the courts?

Edward Fowler: They did not even turn up at my door; it happened in a phone call. Someone phoned us and said, "Do you realise you're bankrupt?" and I said, "I can't be. That would be impossible." They said, "Well, no. We'll send someone round to the business." An hour later someone turned up and said, "I want your keys." They wanted absolutely everything, including credit cards and bank accounts.

Ms White: So you had no prior knowledge of this and no defence. Your partner put forward a defence, but that was not accepted. They just said that that was the law. I read that you contacted umpteen solicitors in Aberdeen, but they said that it would be better just to accept what had happened.

Edward Fowler: Yes. I was a member of the Federation of Small Businesses, the local chamber of commerce and Aberdeen Enterprise Trust, so I thought that I would have support if something ever happened. I did not think, though, that anything like this could happen.

Ms White: Thank you, Mr Fowler. I find what happened to you amazing.

John Scott: I am sorry that I missed the early part of your presentation. What VAT sums were involved?

Edward Fowler: The VAT people said that I owed them the sum of £30,000, but I had paid it and they had made a mistake. They did not realise that I had paid it. They put the sum in another department or whatever. It then took them nine months to tell us that. The legal aid people said that we should have recalled it within six weeks, but we did not know for nine months that the VAT people had made a mistake. Well, we knew that they had made a mistake, but they did not admit that they had made a mistake.

During all the time that I was writing to the VAT people, they never wrote back to me. Only when I got my MP, Anne Begg, involved did they write, but they wrote to her—I did not exist. I did not exist to many people, including solicitors and banks. As a person, you stop existing and stop having anything.

John Scott: Again, my apologies for not being here to begin with, but why do you think that this situation came about? Was it just a mistake by the VAT people that caused it?

Edward Fowler: Yes. A woman visited us in the November. I had been in business for six years and we had never had a problem. The other way in which we never had a problem was that there were no other creditors as such; I mean that there were only the normal creditors—I had no history of bad debt or anything. A lady from the VAT people visited us in November. My accountant believed that she made a mistake. She went through the computer accounts, with which we were having a problem, and came out with figures that were all wrong. That is where this problem started.

John Scott: Did she not give you an opportunity to explain?

Edward Fowler: All the papers that came through did so after I was made bankrupt, so I was never able to explain anything. All my accounts were taken and my access to my records—everything was taken from me. From that moment on, it was as though I did not exist as a person.

John Scott: Have you had no word from the VAT people?

Edward Fowler: The parliamentary ombudsman wrote to them and they admitted that they had made a mistake. The ombudsman is now going through a full parliamentary inquiry into that.

John Scott: When do you expect a result from that?

Edward Fowler: That is what I do not know. I do not know how long it takes.

Campbell Martin: I find it difficult to comprehend that this has happened. It seems an incredible injustice and it must have been very difficult for you to live through it, Mr Fowler. You said that somebody phoned you and broke the devastating news that, according to them, you were bankrupt. Before that, when you were paying your VAT, were there any problems? If you were late in paying, did they contact you?

Edward Fowler: I had problems with the computer system whereby we could not get our VAT returns out, but we always paid the VAT. Therefore, although our returns were not being done or were late, we had paid the VAT that was due. That is where the problem arose. When the woman from the VAT people came in, she did the returns for us and then said that we were due to pay all this money—but we had paid it. Although it looked on paper as though we had not paid the money, we had.

Campbell Martin: Did any communication take place between you at that point, whereby they said that you owed this amount and you said that you did not?

Edward Fowler: There was no communication. We explained things to the woman from the VAT and she went away and did all the figures. Then, as someone said, they just hit us with a sledgehammer.

Campbell Martin: As I am not a businessman, I would like you to clarify what you thought the procedure should have been if you had not paid your VAT.

Edward Fowler: If we had not paid our VAT, the VAT people would have had the right to take us to court. However, I should have known about that decision and had the right to go to court and say, "No. They've made a mistake. I've paid the VAT." Indeed, the VAT people acknowledge that I paid it.

Campbell Martin: That should have happened long before you were declared bankrupt.

Edward Fowler: Yes.

John Scott: Forgive me, but surely you must have had bank statements and cheque books showing that the money had been withdrawn from your account and paid to the VAT office.

Edward Fowler: I showed that information to the insolvency practitioner that day. However, he said, "I'm not interested in anything like that—I'm here to close you down". That was that.

John Scott: That sounds pretty outrageous.

Jackie Baillie: I want to make some recommendations. We welcome the parliamentary

ombudsman's investigation and, given that your MP has already been helpful to you, I am sure that she could ask for an update. However, two issues that should be examined are access to civil legal aid and the law of bankruptcy and diligence. Luckily, the Executive has indicated that it intends to introduce legislation—in this session, I think—to modernise the law of bankruptcy and diligence and ensure that appeals go before the sheriff court. That might also take care of the legal aid problem.

I suggest that we write to the Executive to confirm that our understanding is correct and that such legislation would have an impact on people's access to legal aid, which is also under review. Such an approach would allow us to address the policy position that underpins Mr Fowler's experience.

The Convener: Are members happy to follow that suggestion?

Members *indicated agreement.*

The Convener: Mr Fowler, we will keep you updated on our progress on this matter. Thank you for bringing your interesting petition to the committee. It has raised a matter of concern for us, and we will pursue it as vigorously as we can.

Edward Fowler: Thank you.

Affordable Housing (Scottish Executive Policies) (PE877)

The Convener: The next new petition is PE877, by Janet Walton, which calls on the Scottish Parliament to urge the Scottish Executive to review its policies, particularly in relation to the impact on the elderly and people on low incomes. Before the petition was formally lodged, it was hosted on the e-petition site where, from 13 June 2005 to 26 August 2005, it gained 27 signatures and one comment. The usual e-petition briefing has been circulated to members for information.

Do members have any points to raise or recommendations to make?

Ms White: The lack of affordable housing is a major problem not just in rural areas but in cities throughout Scotland. As a result, I suggest that we seek a response on this petition from Communities Scotland, which has overall charge of the budgets. Members might wish to seek other views, but that organisation needs to provide some answers about how it is addressing the lack of such housing.

The Convener: Do members have any other suggestions?

Helen Eadie: Perhaps we could also write to Fife Council, the Scottish Executive and the Scottish Tenants Organisation.

The Convener: Are members happy with that?

Members *indicated agreement.*

The Convener: That probably covers all the bases.

Justice System (Child Sex Offenders) (PE862)

The Convener: Petition PE862, in the name of Margaret Ann Cummings, calls on the Scottish Parliament to urge the Scottish Executive to conduct a full review of the current system of dealing with and monitoring convicted child sex offenders. Before PE862 was formally lodged, it was hosted on the e-petition site where, from 14 January 2005 to 28 February 2005, it gained 32 signatures. There were also five comments on the e-petition, all of which supported its terms. The usual e-petition briefing has been circulated to members.

The committee has been joined by Paul Martin MSP, who will make a statement on the petition.

11:30

Paul Martin (Glasgow Springburn) (Lab): Thank you. I add for members' information that Margaret Ann Cummings will today present the committee with a petition containing 6,000 signatures in support of a review of the current arrangements for monitoring sex offenders.

I think that there has been some misunderstanding, in that Margaret Ann Cummings thought that she would be able to speak today. She thought that she had returned the relevant form, but there appears to have been a discrepancy. As a result, she has asked me to speak to the petition on her behalf.

PE862 calls for a review of the current system of monitoring and dealing with sex offenders. There are a couple of important points that I want to make. It is important that I amplify local concerns, although not everything that I will say will necessarily reflect my views. First, I want to say something about the disclosure of sex offenders in the light of what has been called Sarah's law and the more recently proposed Mark's law, following the death of Mark Cummings. The petition calls on Parliament to at least interrogate the possibilities of disclosure. So far, there has been no interrogation by Parliament—I refer to interrogation through the committee system in particular—of the various possibilities that exist throughout the world. In other parts of the world—the United States in particular—there are disclosure programmes and there is mass disclosure of sex offenders. I am not saying that such an approach would necessarily work in the United Kingdom, or in Scotland for that matter, but

the petitioners call for interrogation at least of whether that approach can be replicated in Scotland. They call for not only the Executive but for perhaps one of the subject committees—a justice committee—to consider the matter.

Another issue is how housing for sex offenders is allocated. Currently, there is no coherent strategy for housing sex offenders. Stuart Leggate had been identified in another part of Scotland and therefore took up residence in the Charles Street area, where Mark Cummings was murdered. There is a misconception out there that sex offenders are carefully managed through the social services system: in fact, they are not. The process was not managed—Stuart Leggate managed his own housing prospects. He decided to stay where he was of his own accord. Margaret Ann Cummings is concerned that he was placed in a multistorey flat in Charles Street, which was predominantly populated by young children like Mark Cummings and she strongly believes that there must be a housing policy to deal with such matters.

It is important to discuss the sentencing tariffs that are currently available to sheriffs. We have seen what I am about to describe in other cases. Stuart Leggate was sentenced to five years for sexual offences against children. It is certainly inadequate that a person should serve only two years of a five-year sentence. I am amplifying Margaret Ann Cummings' concerns. I keep using an analogy. We have moved the agenda on in respect of how we tackle those who are involved in trafficking drugs and so on; in my constituency, for example, a person is serving 19 years for drug smuggling, which is welcome. However, Margaret Ann Cummings and others have said that we must replicate that approach when we deal with sex offenders against children, given their predatory behaviour.

There is another important issue about which Margaret Ann Cummings has been particularly concerned. A close relationship was formed with the police following the tragic murder of Mark Cummings, but how the police react when children go missing and the need to highlight where sex offenders are located when they do so are issues. Margaret Ann Cummings has called for a much more effective strategy so that we know exactly where every sex offender is when a child goes missing—she feels strongly about that. She has also raised the issue of the pace of our consideration of the matter on a number of occasions. We keep saying that there should not be a knee-jerk reaction, but Mark Cummings was killed in June 2004, which is well over a year ago. There has been talk of change and there have been various committees, but she has raised concerns with me a number of times and she wants to see change once and for all. It might not

be that everyone can agree with such a change but I, too, feel strongly about it; we have to make a once-and-for-all change.

I have one final point that Margaret Ann Cummings would also make. The press and media are obsessed with the vigilantes, stories about sharing information and vigilante action that has happened in the past. I make it clear that communities do not, as a rule, act in such a manner. We have seen that that is the case in my constituency and in other parts of Scotland even when people are angry and it is particularly true with Margaret Ann. I have already paid tribute to her and will do so again today. She made a constructive case on behalf of her child, who was murdered in the most appalling circumstances anyone could imagine. She is asking for people to get involved not in vigilante action, but in peaceful demonstrations such as the one that took place in George Square after Mark's death, and in other peaceful forms of protest such as petitions, the *New of the World* campaign and other media campaigns. We want to move forward and make this change so that we give maximum protection to children in the future in Mark's memory and, tragically and more recently, in Rory's memory.

Ms White: I thank Paul Martin for speaking on behalf of the family and himself. It is obviously tragic that this issue has to come before the committee and that such a thing has happened to anyone. I have long-term concerns about sex offenders and the lack of information that communities are given. It is not just communities that lack information; there is a lack of exchange of information between the police, social services and housing services in particular. The point has been made before, but it always seems that such people are housed in poorer areas where there are young kids and which suffer from deprivation. I have yet to see—and I would not like to see—sex offenders going to certain other areas. They seem to be put in areas where the most vulnerable people live.

We have to consider a new set of criteria. I know that the First Minister announced that the Executive is considering bail issues in respect of sex offenders, but he has not said whether he is going to introduce new criteria for sex offenders. It seems as if robbers or drug dealers get more time than murderers. Those people should be put on a list; people should know where they are, particularly when a child goes missing. There is a lack of coherent communication among the agencies that are involved with sex offenders.

The Justice 2 Committee is considering a bill, but I do not know whether it is considering that issue because I am not on that committee. I think that it is considering the Management of Offenders etc (Scotland) Bill. I do not know whether what I

am talking about would fit in with consideration of that bill, but the comments that Paul Martin and others have made in this committee should go to the Justice 2 Committee.

We must consider separate legislation for sex offenders so that people know their movements. We have to protect our children. This kind of thing is unfortunately happening more and more, although the evidence from the Sentencing Commission for Scotland says that the level of reoffending among sex offenders is lower than among other classes of offender. I do not know so much; that is the evidence from the Sentencing Commission, but the levels certainly do not seem to be lower. Kids' lives are at risk. Those people are predatory and they should not be anywhere near children. If they are near children, people should know where they are so that they can be contacted.

I say that we should certainly pass the petition to the Justice 2 Committee and hope that it considers it separately for possible legislation. I am open to suggestions.

The Convener: Even if we send the petition to the Justice 2 Committee in the hope that it will consider it when it is considering the Management of Offenders etc (Scotland) Bill, the matter might not fit in with that bill. If it does not, there might be legislation in the new programme into which it would fit. It might be worth writing to the Executive to ask where it thinks such legislation would fit into its programme for reform of the criminal justice system.

Helen Eadie: I support that. Paul Martin spoke well on the issue, and everything that he said chimes with the grave concerns that are felt throughout Scotland on this important issue. In particular, I picked up on his point about how we allocate housing for sex offenders. It is a serious issue; there is fear, worry and concern in our communities.

I had a serious case in my constituency. It was not as tragic as the one that is before us, but it was serious. The sharing of information between the police, housing services, social work and other organisations is crucial. As the convener does, I hope that the Scottish Executive will address the serious concerns in our towns and villages, where people are living in anxiety and fear. We have to move much more quickly on such issues than we have done, given the tragic events that we have seen throughout Scotland.

Jackie Baillie: Let me sound a cautionary note as a member of the Justice 2 Committee, then I will try to be helpful. That committee is about to commence detailed scrutiny of the Management of Offenders etc (Scotland) Bill, but the kind of debate that Paul Martin is rightly after would go

much wider than that. Stage 2 presents a useful early opportunity to extend what the bill offers, if we can do so. It would be worth while sending the petition to the Justice 2 Committee, as we would be suggesting to the committee that it should take a wider look at the totality, because the bill does not currently deal with disclosure, monitoring of housing or sentencing tariffs and bail. I therefore support the idea that the Justice 2 Committee and the Executive should explain to us where those issues will be addressed.

The Convener: Are members happy for the committee to conduct its affairs in that way?

John Scott: Paul Martin spoke about interrogating best practice worldwide, which would be reasonable. From your inquiries, do you have examples of better practice that could point us in the direction that we need to go?

Paul Martin: There are websites in the United States that list the names and addresses of a number of convicted sex offenders. The process is open, although I accept that the environment in those areas might be different from that in our communities. That issue would have to be addressed.

In a similar campaign down south, Sara Payne suggested a buddy system, whereby sex offenders are monitored effectively by the local community being aware of their past. The buddy system cocoons them to ensure that they are carefully monitored and supported by various agencies. That would be a difficult measure for our communities to take, given the background to some of the tragic cases, but Sara Payne made that suggestion, which is why I made the point about vigilante action. People like her are willing, despite their own tragic circumstances, to make constructive suggestions.

We need to examine all that evidence and ask: Where do we go? We have not done that so far. We have had as many reviews as we could have had, going back to the Cosgrove report in 1997. We have a complex issue to grapple with, but we need to make a once-and-for-all decision that takes into consideration practices elsewhere. I accept that disclosure in a state in the US is different to disclosure in Scotland, but we need to use all the expertise that has been gained. We have done that with other subjects and taken evidence from around the world—for example, I took part in a videoconference with people in Canada on the prison estates review. I do not know why we cannot do that with the issue that is before us.

I stress that we need to progress quickly, but this is not a knee-jerk reaction. All the evidence is available; there is a wealth of information on how to tackle the issue, but the Executive needs to pull

that information together, although there are signs that it is doing so. I think that I am representing the views of Margaret Ann Cummings when I say that although Cathy Jamieson has met us on a number of occasions and has shown interest in taking the issue forward, pressure must be placed on the Executive to take decisions to ensure that we provide maximum protection.

Campbell Martin: I agree with the convener's idea to ask the Executive where the proposed action would fit into the overall legislative programme. It is clear that although the issues that Margaret Ann Cummings has raised in her petition are predominantly justice issues, housing issues are also involved. As well as forwarding the petition to the Justice 2 Committee, we should ask the Executive in what parts of its programme all the issues that have been raised will be tackled.

The Convener: It would be useful to get an overview of that. Are members happy for us to deal with the petition in that way?

Members indicated agreement.

11:45

The Convener: I discovered only 15 minutes before the start of the meeting that Mrs Cummings expected to speak to the committee this morning. If there has been a misunderstanding, I give an assurance that that was in no way an indication that the committee does not take the issue seriously. There has been a genuine misunderstanding with regard to the paperwork that was sent to Mrs Cummings and I hope that the comments of committee members have conveyed to Mrs Cummings the seriousness with which we are treating the issue. We will pursue matters with as much vigour as possible to ensure that we obtain clarification on where the legislation can be amended to address Mrs Cummings's concerns, which arose from the tragedy that she experienced. On behalf of the committee, I extend our sympathy to her for the circumstances that led to her submitting a petition to us.

Vulnerable Adults (Medication) (PE867)

The Convener: Petition PE867, which was submitted by W Hunter Watson, calls on the Scottish Parliament to provide adequate safeguards to prevent vulnerable adults from being given unwanted, unnecessary and potentially harmful medication by surreptitious means. The petitioner is concerned that, in the absence of adequate safeguards, unwanted medication that may be inappropriate and harmful is being administered surreptitiously to elderly care home residents.

Do members have any comments?

Ms White: Although not all care homes carry out such practices, I have concerns. As a member of the cross-party group in the Scottish Parliament on older people, age and aging, I have visited various care homes, some of which are good and some of which are bad. I am not suggesting that all care homes administer drugs that they should not administer, but we should examine the issue because there is evidence from Alzheimer Scotland and other agencies that inappropriate drugs have been given to patients. I am sure that all constituency representatives have heard horror stories about care homes.

I suggest that we write to the Executive, Alzheimer Scotland and the Scottish Association for Mental Health to seek their views. We might also want to write to the British Medical Association or other organisations. Unfortunately, there is no doubt that such practices take place in some care homes.

John Scott: I agree that we must go down that route. However, given that section 47(5) of the Adults with Incapacity (Scotland) Act 2000 was amended when we considered the Smoking, Health and Social Care (Scotland) Act 2005, I am surprised that we did not take that opportunity to address the issue if there was a burning need to do so. We amended the Adults with Incapacity (Scotland) Act 2000 as a result of a petition that was submitted to this committee. Nevertheless, we probably still have to go down the road that Sandra White suggested.

Campbell Martin: I share the concerns that Sandra White and John Scott have expressed. I know of an incident that occurred in the past few weeks, in which a home asked a general practitioner to administer a sedative to one of its residents, who was incapable. The GP did so, but there was no consultation of the resident's family. It is a bit scary that such practice is going on. I have great sympathy for the petitioner and I fully endorse the recommendations that have been made.

The Convener: Are members happy to take the action that has been proposed?

Members *indicated agreement.*

The Convener: That was our final new petition. We will continue, because I know that a few members must leave shortly. *[Interruption.]* I am sorry; we cannot have people speaking from the public gallery.

Current Petitions

Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (PE841)

11:47

The Convener: Our first current petition is PE841, which was submitted by the Curran family. It calls on the Scottish Parliament to urge the Scottish Executive to amend the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 to make provision for a mandatory inquiry in the case of a road death that is caused by careless drivers.

At its meeting on 11 May, the committee agreed to write to the Scottish Law Commission, the Lord Advocate, the Minister for Justice and the Royal Society for the Prevention of Accidents. Responses from all of them have now been received and have been circulated to members. The position of the Scottish Law Commission in relation to the 1976 act is set out in its response to PE767, which is on the same subject. Further correspondence has been received from Scotland's Campaign against Irresponsible Drivers, which has been circulated to members.

I have received a substantial number of letters in support of the petition from other families that have suffered bereavement in similar circumstances to those of the Curran family. On behalf of the committee, I thank all those who have taken the time to write to the committee on the issue, and I offer my sympathy to the individuals and families concerned.

Petition PE767 is also on our agenda as it, too, deals with the 1976 act. Are members content that we link the two petitions together?

Jackie Baillie: I do not think that we would do either of the petitions justice if we were to link them. Although both are on the subject of FAls, they deal with quite different aspects. Out of fairness to both sets of petitioners, we should keep them separate.

The Convener: That is fine. I will follow your advice on that.

Do members have any comments on PE841? The local MSP, Elaine Smith, is unavailable due to ill health, but she has sent a letter that has been circulated to members. She has offered her support for the Curran family and for the petition. Tom Clarke, the local MP, has also indicated his support for the issue.

John Scott: I welcome the response that we have received from the Lord Advocate. In essence, it contains an admission that the matter could have been handled much better and more sympathetically. I am pleased that he has made

that clear. It is absolutely vital that such matters are handled sympathetically. If that has not happened, it is a great shame; however, if the situation can be rectified in the future, that is progress. In such dreadful situations, it is important that matters are handled sympathetically.

Jackie Baillie: I concur with John Scott's comments. It is helpful that there has been an acknowledgement that the procurator fiscal did not do everything that they could have done in the circumstances. That said, the responses from the Minister for Justice and the Lord Advocate essentially say that they think that the current flexibility is sufficient. The letter from Scotland's Campaign against Irresponsible Drivers puts a different view. Before we make any decisions about the petition—and to facilitate our hearing the views of the local MSP, who is ill—I would like to hear from the petitioners. Can we send the responses that we have received to them for their comments before we make any decisions?

The Convener: Yes, I suggest that we do that. Alex Neil has something to add.

Alex Neil (Central Scotland) (SNP): I have two or three points to make, convener. Thank you for allowing me to participate in the meeting, along with other members. It is fair to say that there is wide cross-party support for the petition among MSPs. Although we recognise that the law covering dangerous and careless driving is not a devolved responsibility, a change or a toughening up in the law on careless and dangerous driving is a desirable aim, and it is the aim of the campaign.

Elaine Smith sums up the situation when she says in her letter to you:

"This is an inevitable by-product of a justice system which puts the onus on the prosecutor to prove guilt. When sufficient evidence cannot be found procurator fiscals often face the frustrating task of pursuing a lesser charge."

That is why a mandatory FAI is required in such cases. I accept the apology from the Lord Advocate and the admission that the procurator fiscal did not handle the matter in the most professional way. However, frankly, I do not think that that goes anything like far enough, in policy terms, towards addressing the need for a change in the law.

My colleagues and I will speak up with the firm view that, at the least, the Scottish Parliament should give the petitioners' request serious consideration. In my opinion, the Parliament should implement in legislation the suggestion contained in the petition.

The Convener: Other MSPs are here, but, before I come to them, I will offer other committee members, who have read all the correspondence, the opportunity to comment.

Ms White: We gave our comments when the matter was discussed previously. As Alex Neil said, Elaine Smith's letter explains the issues. We should consider some form of legislation on the issue. I cannot propose such legislation, but I hope that the Executive will take the issue on board.

As Jackie Baillie said, it would be interesting to find out what the petitioners feel about the correspondence, so I would be happy if we sent it to them before we progress the matter further. However, there should be legislation on the issue.

The Convener: I will take brief comments from Donald Gorrie and Linda Fabiani before we conclude our discussion.

Donald Gorrie (Central Scotland) (LD): I appreciate being allowed to comment, convener. The committee should bear it in mind that the petitioners' case is one of a series of distressing cases of the same sort, which all seem to me to arise from the plea bargaining issue. As the part of Elaine Smith's letter that Alex Neil read out states, the problem arises because the person who has done the bad driving is accused of only careless driving. As I understand it, the result is that the fact that somebody has died in the incident cannot even be mentioned and the person who has done the bad driving, apart from giving their name and address, says nothing to the court at all—the case is just swept through. Naturally, the family of the person who has been killed feel aggrieved.

I accept that procurators fiscal have problems, but from what I have been told, it seems that the police and the prosecutors are remarkably feeble in pursuing some cases. For example, they say that they cannot give the specific speed of the vehicle that is at fault. I would have thought that any competent person in the police or the prosecution service would have a fair idea from the degree of scrunched-upness of the damaged car of the speed at which the car that hit it was going. In this case, the car that was hit was stationary and in a queue of traffic.

The committee should either urge the Parliament to pursue the request in the petition, or, at the very least, press the Lord Advocate and the Minister for Justice to take the issue about people being charged with careless driving much more seriously.

Linda Fabiani (Central Scotland) (SNP): I agree with everything that has been said. I am sure that the petitioners would welcome the opportunity to respond to the letters that the committee has received from the Lord Advocate and the Minister for Justice, about which I have a couple of points.

First, the letter from the Minister for Justice states that there is no breach of the requirement under article 13 of the European convention on

human rights. Could the committee ask the minister to amplify that comment, expand on her reasoning and say what evidence there is for that conclusion?

Secondly, as has been said, the law in England and Wales is different—that is as it should be and is perfectly understandable. However, the Lord Advocate's letter states that

"comparisons with the situation in England and Wales are ... unhelpful",

but then notes something about the situation in England and Wales that is helpful to the Executive's position. That is a bit inconsiderate—that particular element of his letter should be disregarded.

12:00

The Convener: I am not saying that that part should be disregarded, but it baffled me. I read the minister and the Lord Advocate's letters. The minister makes the point that the Department for Transport report into coroners' inquests in England and Wales

"found that the process often gave little comfort to families and can give rise to expectations which cannot be fulfilled."

The minister

"cannot see the case for following an English model which has caused those difficulties."

However, the petitioners clearly said that the difficulty was that they could not even get to the position in which an FAI may or may not let them down. I do not follow the logic of that argument.

The Lord Advocate's letter states:

"even where FAI's have been held, many families still feel aggrieved that the process has in some way 'let them down'."

Giving the family the opportunity to hear the evidence in an FAI would give them something that otherwise would be missed. In the petition, the family asked for recognition that their daughter was a victim, and an FAI would at least provide that—whether or not a family is satisfied with the outcome, it would be recognised that their loved one had died in an accident. If nothing else, that would deal with one aspect of the petition. The minister and the Lord Advocate missed that and I would like that illogicality to be addressed.

Campbell Martin: The minister's response mentions coroners' inquests giving "little comfort to families". That was not the point of the petition. Families might be looking for justice rather than comfort, and they need an FAI to get justice.

As Linda Fabiani mentioned, the minister does not think that the current law is in breach of article 13 of the European convention on human rights. I

would like the minister to explain why she thinks that, rather than simply stating it.

The Convener: Everybody has had the opportunity to comment on the responses that we have received, but the petitioners are the important people from whom we need to hear. It has been suggested that we should send all the information that we have collected to the Curran family and await their response to the points that have been made. We will address the matter again when the petition comes back to us at a future committee meeting and keep the petition open until we get a chance to do so.

Are members happy with that suggestion?

Members indicated agreement.

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

The Convener: PE767, in the name of Norman Dunning, on behalf of Enable, is also on the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. The petition calls on the Scottish Parliament to urge the Scottish Executive to review the operation and effectiveness of that act.

At its meeting on 2 March 2005, the committee considered responses from the Lord Advocate, the Law Society of Scotland, the Scottish Law Commission and the Minister for Justice. The committee agreed to write again to the Minister for Justice to invite her views on whether it would be useful to conduct research into whether the fatal accident inquiry system is operating satisfactorily.

A response has been received from the Minister for Justice, which has been circulated to members. Do members have views on it?

Jackie Baillie: I apologise in advance: after I have commented, I will leave, taking Helen Eadie with me. For my sins, I have a site visit for the Edinburgh Tram (Line One) Bill Committee.

The minister's letter is helpful on two counts. First, she states:

"The Crown Office and Procurator Fiscal Service have been reviewing their practice and procedure ... and will be issuing new guidance and training to procurators fiscal."

Secondly, she is exploring

"the possibility of setting up a system for recording recommendations centrally"

and ensuring that the implementation of those recommendations is monitored.

I would like the committee to keep the petition open for two reasons. First, we should receive a copy of the guidance that is issued so that we can ensure that it covers the points that the petitioner has raised. Secondly, the proposal to consider a central monitoring of recommendations is to be

welcomed and the minister said that she would write to us on that matter. I suggest that we welcome the minister's response and keep the petition open.

The Convener: Do members concur with that suggestion?

Members *indicated agreement.*

The Convener: I hope that Jackie Bailie and Helen Eadie enjoy their visit.

NHS Scotland (National Specialist Services) (PE791)

The Convener: PE791, from Brian McAlorum, calls on the Scottish Parliament to review the criteria and funding mechanisms for national specialist services that are provided to NHS Scotland by individual health boards, as currently they are neither transparent nor effective, as witnessed by the situation that has arisen with regard to the centre for integrative care at Glasgow homeopathic hospital.

At its meeting on 28 June 2005, the committee considered responses from the Minister for Health and Community Care and NHS National Services Scotland and agreed to approach NHS Greater Glasgow to express concern at its lack of response. The committee also agreed to seek the views of the chief medical officer.

A response has now been received from NHS Greater Glasgow, which has been circulated to members. Do members have any views?

Alex Neil: I appreciate your allowing me to comment on the petition, convener.

If members have read Greater Glasgow NHS Board's reply, they will know that there is a great deal of satisfaction that the campaign to save the hospital has been successful. However, the matter still raises the general policy issue of the criteria for designation as a national specialist service.

In his letter, Mr Divers makes the point that 85 per cent of the patients who use the homeopathic hospital in Glasgow are from west-central Scotland. However, we do not know whether that is because only people from west-central Scotland have access to the hospital and the rest of the population does not, or because such services are also available elsewhere in Scotland. My information is that such services are not available elsewhere in Scotland. The fact that 85 per cent of patients are from west-central Scotland does not justify the existing criteria. The criteria for designating national specialist services units need to be reviewed to see whether they are appropriate.

Mr Divers does not mention the fairly significant capping of funding for the hospital that has taken

place since May. It is fine to say that we will keep the hospital open, but if it is not to be properly funded, the situation will become difficult and potentially unsustainable in the long term.

A number of issues remain to be resolved. The main one is the policy issue of what the criteria should be. There is a need to review the criteria to see whether they meet the needs of a modern health service in Scotland.

John Scott: Alex Neil may have a point. It had been my intention to propose that we should close the petition, but we might wish to write to the Executive again to ask whether it is content with the current criteria. I do not know what other committee members' views might be.

The Convener: We will find out

Ms White: I congratulate Brian McAlorum and his group, who have managed to save the 15-bed homeopathic hospital at Gartnavel. I also welcome Andy Kerr's statement when he visited the facility; he said that he wanted similar care to be available elsewhere—that backs up what Alex Neil was saying. Andy Kerr also said that a holistic approach helps people to care for themselves and went on to praise the homeopathic hospital at Gartnavel. It has been a victory for the Public Petitions Committee that we have managed to save the 15 in-patient beds.

However, the petition asks for a review of the criteria; it is a big problem that we have not had such a review. It has been said that 85 per cent of the patients come from the west of Scotland, but I have been at various public meetings to save the homeopathic hospital and, although some would say that Rothesay was in the west of Scotland, others in Glasgow and parts of the west would say that Rothesay was slightly further out. There are patients who come from outwith what I would call the west of Scotland region. I am not entirely convinced that only 15 per cent of the hospital's patients come from outwith that region. Alex Neil says that the services may not be known about elsewhere, but a woman from Newcastle who came to one of the public meetings had gained access to the facilities.

I have written to the Greater Glasgow NHS Board about funding and how much money the board received from other health boards to fund the homeopathic hospital. However, I have been unable to get an answer to that question. The information I am looking at says that we have not had a response from the chief medical officer, so we will have to look into why that is the case—unless I am looking at the wrong piece of paper. The minister has said in black and white that he wants similar care to be available elsewhere, so we should ask him what is meant by funding for a

national service as opposed to funding for a local service.

The Convener: We have received a letter from the Minister for Health and Community Care, who concludes that

“it would be inappropriate to designate the Homoeopathic Hospital as a national service.”

We know the minister’s view. It may be that we have to write to Greater Glasgow NHS Board again, to raise the points that Alex Neil has raised, before we take up the issue again with the minister.

Alex Neil: There are two separate issues. One is the designation of the homoeopathic hospital under the current criteria. It is quite clear, under the current criteria, that the minister is strongly of the view—as is the health board—that the service cannot be designated as a national service. However, the petition calls for something much wider—a review of the criteria. It may be that, if the criteria were modernised and made more appropriate, the homoeopathic hospital would indeed qualify.

The Convener: I see no harm in writing back to the minister to ask that specific question. We will keep our consideration of the petition open until we get a response, by which time we should have heard from the CMO.

National Parks (Scotland) Act 2000 (PE805)

The Convener: PE805, which was submitted by Ian Watson and Peter Brucelow, calls on the Scottish Parliament to urge the Scottish Executive to conduct an urgent review of the National Parks (Scotland) Act 2000 and, in particular, to assess the performance of each national park authority in meeting the four aims of a national park as defined in the act.

At its meeting on 2 February 2005, the committee agreed to write to the Loch Lomond and the Trossachs National Park Authority. A response has been received and circulated. Do members have any views on the matter?

Mr McGrigor: In the petition, the petitioners asked that an MSP speak on their behalf; I have only just received a letter about that. Would it be all right for me to make a short statement?

The Convener: That is up to you.

Mr McGrigor: The petitioners are worried that the brown trout fishings in Loch Arklet and the surrounding lochs, which are an important asset of the park, are not being managed in the way in which they were managed when they were in the hands of the water board. They consider that the national park authority should appoint someone to

look after the brown trout fishings in the area. They also consider that the use of jet-skis, speedboats and other personal watercraft goes against the aim of keeping a tranquil area within the park and seek that such use be controlled to some extent.

On the fisheries side, I agree that there should be someone on the board of the park authority who at least understands the fisheries in the area, which are an important asset. That is all that I have to say.

Ms White: I have just a few observations. It is important to get the petitioners’ reaction to the response that we have received from the national park authority, especially what it says about fishery management. The authority says that it is “not overly concerned” about who carries out that management and I would like to find out the petitioners’ views on that. In addition, I point out to whoever typed up the briefing that “Lock Katrine” should be “Loch Katrine”.

The Convener: Well spotted. We will write back to the petitioners to seek their views and will discuss the petition further when we have received a reply from them.

Sylvia Jackson has an interest in the petition.

Dr Sylvia Jackson (Stirling) (Lab): I will speak as the constituency member for Stirling because Loch Katrine comes within my area.

I have been involved in numerous discussions about Loch Katrine involving the community, Scottish Water, the national park authority and various other concerns. The aim of those discussions was to implement an integrated management plan for the Loch Katrine area. Most members will be aware that our chief aim was to save the Sir Walter Scott, but that was not the only part of the plan. As the letter that the committee received from the convener of the national park authority suggests, that plan and the Loch Katrine trust that has been set up will be concerned with the issues that Jamie McGrigor and, of course, the petitioners are worried about.

As I think Sandra White said, it would be good to obtain reassurance that the necessary expertise will be available, not only in the national park authority, which has just produced a park plan for consultation, but in the new Loch Katrine trust, if it takes over responsibility for fishery management.

The Convener: We will get the petitioners’ views about the responses that we have received and will discuss the issue again.

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

12:15

The Convener: PE811 is from Mark Mulholland on behalf of Parents and Residents Against Masts, or PRAM. The petition calls on the Parliament to consider and debate the permitted development rights enjoyed by Network Rail in respect of the erection of 96ft global system for mobile communications railway—GSM-R—communication masts in residential areas.

At its meeting on 2 February 2005, the committee agreed to seek comments from the Minister for Communities, Network Rail, the Office of Rail Regulation, the Office of Communications, the National Radiological Protection Board, the Convention of Scottish Local Authorities and the Scottish Advisory Committee on Telecommunications. With the exception of the response of the advisory committee, which no longer exists, responses have been received and circulated to members.

Ms White: I know that you had quite a lot to say when the petition first came to the committee, convener. I will throw in my tuppenceworth and perhaps you could sum it up.

I have always had concerns—as has everyone—about masts being put up just anywhere. We could change things only under the Town and Country Planning (Scotland) Act 1997, but nothing seems to be happening. The minister has made one good move, in that he is encouraging Network Rail to talk to communities. I would like an update to see how far that has gone and what Network Rail is doing at the moment. That was all that I wanted to say; we should write to the Minister for Communities.

The Convener: That would be useful. We could also ask how the minister thinks that this issue will fit in with the proposed new planning legislation.

John Scott: The recommendation from COSLA is very sensible.

Campbell Martin: I have an example where Network Rail wrote to the local authority—North Ayrshire Council in this case—to advise where it wanted to put masts but the council made no representations. When I queried why it had not done so, it said that it was under the impression that it was just being notified for information and had not responded to any notices. However, other councils have responded to such notification and Network Rail has accommodated their concerns, moving masts in some cases. Therefore, there might be a problem with some councils and their understanding of Network Rail's permissions.

The Convener: I hope that the proposed new planning legislation will give some clarity, especially in relation to the involvement of communities when such things are going to have an impact on them. If we ask the minister for his views on the proposed planning legislation and how it might be affected by such issues, that would be useful for clarification and we could then get back to the petitioners to see whether they think that that will be effective.

Global Campaign for Education (PE734)

The Convener: PE734, which is by Angela O'Hagan on behalf of Oxfam in Scotland, calls on the Scottish Parliament to endorse the aims of the global campaign for education in achieving the millennium development goals and making the United Nations convention on the rights of the child a reality in Scotland. It further calls on the Parliament to consider practical steps for the Scottish Parliament and Executive to promote those aims in Scotland.

At its meeting on 23 February 2005, the committee agreed to write to the petitioner and invite her views on the responses received from the Scottish Executive and the commissioner for children and young people. Her response has been received and circulated. We now need to ask the Executive to comment on the petitioner's views. We will take it from there when we get a response.

High Voltage Transmission Lines (Potential Health Hazards) (PE812)

The Convener: PE812, from Caroline Paterson on behalf of Stirling Before Pylons, calls on the Scottish Parliament to urge the Scottish Executive to acknowledge the potential health hazards that are associated with long-term exposure to electromagnetic fields from high voltage transmission lines, and to introduce as a matter of urgency effective planning regulations to protect public health.

At its meeting on 23 February 2005, the committee agreed to write to the Scottish Executive, Scottish Power, Scottish and Southern Energy and the human radiation effects group of the University of Bristol, and to seek independent advice on the implications of underground cables. Sylvia Jackson has an interest in the petition.

Dr Jackson: I do, as the constituency member for Stirling. The main thrust of the petition is about the health effects of the high voltage power lines. It concerns my constituents in the Kinbuck area, but also others outwith my constituency because of the huge area that the Beaulieu to Denny power line covers. A number of points in the material that has been received by the committee need to be

restated because of their importance. The first is the important National Radiological Protection Board note, which

“recommended that Government consider the possible need for further precautionary measures.”

As members will note, the Parliamentary Under-Secretary of State for Public Health, Melanie Johnson MP, has set up SAGE, the stakeholders advisory group on extremely low frequency electromagnetic fields, in response to the problem. On that group is Professor Denis Henshaw from the University of Bristol; his letter, which is in the committee papers, makes a number of important points in his letter. Professor Henshaw says:

“I am a member of SAGE and the issue of siting power lines near existing homes as well as the build of new houses near existing power lines is one of the issues receiving urgent attention.”

He also says that

“Specifically, more is known about EMF health effects than about passive smoking, than about viruses purportedly linked to the incidence of childhood leukaemia and about ionising radiation at normal background levels”.

He continues:

I would throw down a challenge here to anyone who claims that there is not a strong link between EMF and increased risk of adverse health. I will offer to send them every week for the rest of their lives a good peer reviewed scientific paper in a respected international journal reporting clear evidence of adverse health effects from exposure to power frequency electric and magnetic fields.”

He goes on in his last paragraph to state:

“I urge the Scottish Parliament to consider immediate strict precaution against the siting of power lines near houses or the converse. I would remind the Parliament that we are well behind some other countries in this regard: In 1996, Sweden introduced a similar 0.2 microtesla exposure limit for new power line installations; Switzerland introduced a similar 1 microtesla limit in 1999 and three autonomous Italian regions (Toscana, Veneto and Emilia-Romagna) introduced a similar 0.2 microtesla limit in 2000.”

In addition, the Draper report has reported since then. It not only sets out concerns about childhood leukaemia, but mentions other issues relating to the power lines. It talks about depression, for example, and other mental health problems. I do not want to go on at length because all the information is in the papers.

The Convener: I am glad that you said that—a lot of people still want to speak.

Dr Jackson: I suggest that because the cost to public health has not been a consideration in the routing of the power line—Scottish and Southern Energy states that—we should wait until we see the report from SAGE, which we are told is fairly imminent. We should recommend to the Scottish Executive that it take up Professor Henshaw's call for a precautionary approach.

The Convener: Three members wish to speak. I hope that they will be brief, because we are not here to rehearse the discussion that took place when the petitioner came before us; rather, we have must discuss what we should do in the light of responses.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): I assure you that I will be brief because Sylvia Jackson has given a good explanation of the case. Serious health issues have been underlined in both the Draper and Henshaw reports. I believe that William Stewart's phrase, the “precautionary principle”, should be paramount and that the call for a moratorium, at least until we see what SAGE comes up with, has to be adhered to.

As a councillor, I wrestled with planning applications, and the environment sometimes took priority over human life. If bats are mentioned in a planning application, everybody dives for cover and the whole thing is sterilised. However, here is a situation in which human life is at risk but the planning process cannot deal with the matter. That is totally wrong. I attended a presentation by the applicants at which I was surprised by their total resistance to undergrounding. They virtually told me that it was technically impossible. I think that they were afraid to establish whether it is possible. They said that, even if that were done, their technology would require a 100m wide swathe across the countryside. I believe that that information was out of date and that the technology does exist to put the lines under the ground; however, that is a separate issue. I fully support what Sylvia Jackson said about calling for a moratorium.

The Convener: I set Mark Ruskell the same challenge to speak briefly and to tell us something that we did not already know.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): Okay—I will be brief. The committee has considered three petitions—PE650, PE728 and PE769—on EMF radiation, health and the planning system. To my mind, PE812 addresses the same issue, except that it relates to power lines rather than to terrestrial trunked radio communication masts. The Communities Committee has considered those three petitions on TETRA, but it appears to be reluctant to deal with the health issues that PE812 raises. I understand that that committee will consider the general issue of how health relates to the planning system, alongside its consideration of the imminent planning bill; however, that has resulted in a lot of disappointment among the petitioners. There is a need for the Health Committee to consider the broader issue of EMF and health.

Issues about TETRA are coming forward from communities throughout Scotland and issues

about power lines are now coming forward. There is a need for a dispassionate examination of EMF and health to find out whether the guidelines are working appropriately across a range of different technologies. I also think that there is a need for the Communities Committee to revisit the three petitions on TETRA and to consider how health is dealt with in the planning system. That committee should add PE812 to that consideration, because the petitions are pretty much identical in raising issues about guidelines and whether health is a material consideration in the planning system.

Bruce Crawford (Mid Scotland and Fife)

(SNP): I will try to be even briefer. The letter from Professor Henshaw is eloquent and strongly worded. The evidence from the industry seems to contradict what the professor says, although it does not talk about nocturnal impact. The letter from the National Radiological Protection Board talks about the need for further precautionary measures. That is a Government agency suggesting that we should go down that road. Therefore, there are strong and valid reasons for particular courses of action.

Sylvia Jackson suggested a moratorium and Mark Ruskell wants the petition to be passed to the Health Committee. Those are both valid suggestions. The committee will want to hear the minister's view of what SAGE is going to say and it will probably want to find out the minister's view on what Professor Henshaw's letter says, given the very powerful health evidence that is trailed there.

Additionally, given that the issue will become part of a planning application under the Electricity Act 1989, the committee might consider advising the minister who has responsibility for planning that there should, because of the strong conflicting evidence, be a public inquiry into the planning application from SSE that is before ministers at the moment. That planning inquiry might begin to deal with the many conflicting issues.

The Convener: A lot of points have been raised across the committee.

John Scott: I draw the committee's attention to paragraph 6.2 of the response from Scottish Power, on line routing. It strikes me that Scottish Power undoubtedly deliberately routes high voltage lines away from housing. I speak from experience, as Scottish Power did that for the Scotland-Northern Ireland interconnector. I would have thought that that was obvious good sense and good practice. I am surprised that Scottish and Southern Energy is not prepared to adopt similar obvious good practice by keeping those pylon lines away from housing, based on the precautionary principle that the weight of evidence that is before us would support. The least strong

evidence seems to be the NRPB's view that more research needs to be done.

There is a conflict, and those arguments were rehearsed at the public planning inquiry that took place for the interconnector. The reporter at that time came to the conclusion that the arguments did not stack up. However, we are nearly 10 years further down the line; perhaps there is new evidence. I would certainly be interested in seeing whether that new evidence is more conclusive than previous evidence.

12:30

The Convener: There is still an awful lot of mileage in the petition. All the suggestions have been valid, but we have to get them in order. We must first get the views of the Minister for Health and Community Care on the report of the work of SAGE, Professor Draper and Professor Henshaw. Once we have the Executive's position, we can consider the industry side of things and the information that is out there in previous reports. We will certainly not get involved in any of the planning application discussions, but we have a lot of scope to look in general terms at how such decisions are made. That is something that we can ask people to consider further down the line in the context of the proposed planning bill, but our starting point must be a letter to the minister. We can re-evaluate our position when his response comes. We shall ask him specifically to give us an update on the work of SAGE and a response on the views of the Draper report and Professor Henshaw's work. Is that agreed?

Members indicated agreement.

Food for Good (PE704)

The Convener: PE704 calls on the Scottish Parliament to urge the Scottish Executive to support the terms of Unison Scotland's NHS food for good charter. At its meeting on 23 February 2005, the committee agreed to seek comments from the Minister for Health and Community Care on the responses that were received from Unison Scotland and NHS Scotland. A response has been received. Do members have any views on it?

Mr Ruskell: It is clear from the Executive's response that a lot of research work has been done on public procurement. I wonder what action is being taken in the light of that research. In particular, one of the calls in the Unison food for good charter is for targets to be set for organic procurement. We know that some hospitals in England have started purchasing organic milk because of the high levels of omega 3 in such milk, which is obviously of public benefit. Two years ago, the Executive produced an organic action plan that contained a specific commitment

to develop a plan for public procurement of organic produce, but it is not clear what has happened on the back of that. I wonder whether it would be appropriate for the committee to ask the minister what is going on in public procurement in relation to the organic sector, because there is a definite commitment in the organic action plan.

The Convener: Much of the petition is about public procurement. We have received some correspondence on that and the minister's response addresses that. We must get the petitioner's views on the minister's response, which will tell us whether they think that the minister has addressed the public procurement aspect of the petition. We shall write to the petitioners to ask them to comment on whether they feel that the petition has been adequately addressed by the minister. I am sure that they will let us know whether there is further scope to question the Executive on the points that Mark Ruskell has made.

John Scott: In fairness to the minister, there is definitely willingness to move down that avenue. I have had discussions with the Scottish Executive Environment and Rural Affairs Department in that regard and I know that the agenda is moving forward quickly—more quickly than it was, at least, although the pace was very, very slow before—and I hope that a momentum is building up.

The Convener: Are members happy with that?

Members *indicated agreement.*

NHS 24 Services (Rural Areas) (PE814)

NHS Services (Rural Areas) (PE826)

Out-of-hours Medical Services (Rural Communities) (PE776)

The Convener: Our next petitions are PE814, PE826 and PE776 on NHS 24.

PE776 by John MacPherson, on behalf of Braemar community council, calls on the Scottish Parliament to investigate the merits of proposed new arrangements for out-of-hours medical services in remote rural communities such as Braemar. If we discuss all the petitions together, we can also consider PE814 by John MacPherson, on behalf of Killin community council, which 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 getting medical assistance to patients in rural areas.

PE826, by Mr W D R Chalmers, urges the Scottish Executive to ensure that NHS services in rural areas such as Mid and Upper Nithsdale are

adequate, equitable and acceptable, as required by the NHS Reform (Scotland) Act 2004, especially in relation to out-of-hours services.

At its meeting on 16 March 2005, the Public Petitions Committee agreed to link PE814 and PE826 and to write to the Scottish Executive. A response has been received from the Minister for Health and Community Care, which has been circulated to members. Do members have views on the petitions?

Dr Jackson: John MacPherson's petition PE814, which I am speaking to because Killin is in the Stirling constituency, is particularly about ambulance cover out of hours. First, I note that the minister in his reply seems to suggest that he thought that the committee should consider the response from the Scottish Ambulance Service, but I did not see anything in the papers. Did you get a response from the Scottish Ambulance Service?

The Convener: Yes—we will try to get it to you.

Dr Jackson: I am sorry, but I did not see it.

The Convener: You would not have seen that response because it is for Public Petitions Committee members only.

Dr Jackson: You can perhaps say in your summing up what is in the response.

The Convener: The response states:

"We would be grateful if you note that we do not wish the attachment to this submission to be made public."

I do not know how we will address that, but I have to abide by the request so the response has been circulated only to Public Petitions Committee members.

Dr Jackson: Okay.

Since the petition came to the committee, there have been a number of incidents. I have to say, in fairness, that at the same time there has been on-going consultation between the community, the Scottish Ambulance Service, Forth Valley NHS Board and, on occasions, NHS 24, to try to make the situation better.

The first incident, in April, relates to a fatal accident inquiry. The incident did not happen out of hours, but it happened during the day when the GP practice was closed for training, so it was a very similar scenario.

A briefing note on the investigation states:

"the investigation concluded that the management of the RRU"

—rapid response unit—

"in particular had been inappropriate. At 15.50 hours with the Callander Ambulance in the Breadalbane area the EMDC authorised the RRU to travel to NHS Forth Valley

Acute Operating Division HQ. This was to allow the completion of administration apparently required by the RRU Paramedic to facilitate their Hospital placement”.

In essence, that was because we had been urging that there had to be double-crewed ambulances and that the training had to take place as soon as possible. However, that was an inappropriate visit by the ambulance when it had been given an emergency call at Killin. It was concluded in the opinion of Stirling procurator fiscal that the person's death would have happened anyway, but nevertheless no ambulance was available.

There have been other incidents. I will not go into details, but in one case following a road accident on the A84 south of Lochearnhead, the local fire brigade attended to find one single-manned ambulance in attendance. The casualty had to await the arrival of another ambulance from Crieff. That happened again on 28 July on the A85 near Glenogle. There was a long wait on that occasion for a person who had spinal injuries, which was particularly distressing for that person. Despite our on-going meetings, there is still great concern in the community that we do not have a safe ambulance service operating out of hours.

I would like to make a recommendation and to hear the committee's ideas. We have been talking about call centres, especially for rural areas, and I think that there has been talk involving Tayside and the Highlands. I am not sure whether there might be something similar for the more rural parts of the Forth valley area, including Killin, Crianlarich and Tyndrum. People in the call centres still do not seem to know where Killin is—it is so far away from Falkirk and district or Stirling royal infirmaries. That is a big issue.

Despite the fact that we have, throughout our meetings, tried to encourage liaison between NHS 24 and the Scottish Ambulance Service so that ambulances can be brought quickly to the person in need, there is still in the community a lack of confidence. I know that the committee has received information about the interim report following the review of NHS 24, and that the final report is due in September, but I suggest that we continue to press for the rural situation to be examined, in particular with respect to ambulance cover in places such as Killin.

John Scott: I very much welcome the interim findings. I am not au fait with the situation in Killin, but the interim report's recommendations following the review of NHS 24 are to be welcomed. It might not be generally known but, in Ayrshire and Arran, there is a pilot scheme that is essentially the same as what Sylvia Jackson wishes for her area. Essentially, what was previously the e-doc system has been resurrected, providing local additionality to the NHS 24 service. As I understand it—I could be wrong—that has been broadly welcomed.

When the matter was discussed more than a month ago, it was said that four such pilot schemes were being rolled out in Scotland. If those are successful, that would help address the problems of NHS 24. That is welcome in as much as it means a return to NHS boards and their ability to provide for themselves the required services. That is also in line with the Kerr report.

Ms White: I listened with great interest to what Sylvia Jackson said. She speaks for all MSPs, and especially for the people in the areas directly concerned. Issues around ambulance services, the call-out rate and NHS 24 have been raised again and again. The interim report has addressed some of those issues, and there are some concerns there for the Minister for Health and Community Care. I hope that the minister sees the petition, and I hope that he will have the opportunity to see the responses that have been made today by Sylvia Jackson and others. Perhaps he will be able to take on board some of the ideas that she has highlighted.

NHS 24 is the crux of the matter, and we should write to that organisation for an update on its service improvements—if there have been any. It would be good to get an update on what improvements NHS 24 has carried out and then to write to the Minister for Health and Community Care to request a full report from the independent review team. Could we send the minister a copy of the petition and of what has been said here? The issues that Sylvia Jackson has just raised are very important, and they should reach the right ears.

The Convener: Do you mean that we should send a copy of the *Official Report*?

Ms White: Yes. We are writing to the minister to ask for an update on the independent review; is it within our competence to send the minister a copy?

The Convener: The minister will have already seen the petition.

Ms White: I mean a copy of what has been said today.

The Convener: You want to ensure that the minister is aware of the comments—

Ms White: That Sylvia Jackson made in particular—

The Convener: In the *Official Report*.

Ms White: Yes.

The Convener: We will bring it to his attention.

John Scott: We could ask the minister when the full report is going to be delivered. We are aware of the interim report and the recommendations, but when is the remainder to come?

The Convener: It is due in September.

Campbell Martin: On 30 September.

The Convener: We will get a response on the points that have been made by Sylvia Jackson and other committee members.

Dr Jackson: I have one final point to make. This is a matter of trying to reassure the community that the situation in Killin—and, judging from what Sandra White said, elsewhere—will be subject to on-going monitoring. Somebody should be looking at the situation. Although we have been having local meetings and have been gradually securing some improvements for the community at large, when the incidents happen it seems as if we are not getting any improvement. We need on-going monitoring to help to improve the situation. We could possibly make use of some of the pilot work that John Scott mentioned. It is a question of how we move things on.

The Convener: We will ensure that the minister is aware of the concerns that Sylvia Jackson has raised.

Dr Jackson: Thank you.

Public Petitions Committee Event

12:45

The Convener: Item 3 is a report on the Public Petitions Committee's event in Ayr on 6 June 2005, the third of our rolling programme of participation events. The event consisted of a formal committee meeting in the morning and a workshop event in the afternoon. The committee considered eight local petitions in the community in which they originated. In the afternoon, about 50 people from Ayrshire participated in the workshop event. On behalf of the committee, I place on record my appreciation to all those who attended and contributed to making the day such a success.

The committee is invited to consider the report on the event that has been circulated to them by the clerks and to agree to the recommendations that are set out in paragraph 22 of the report, which will be published on the committee's website and circulated to everyone who attended on the day. Are members happy with that?

Members *indicated agreement.*

John Scott: The feedback that I have received from the residents of Ayr and elsewhere in Ayrshire has been very positive. People very much welcomed the committee's visit to Ayr and thought that it worked particularly well, in that we were able to discuss the issues in a cross-party way, without party politics being involved, and to come to conclusions about how the petitions should be resolved. As far as I understand it, they were very appreciative of our visit.

The Convener: That is good to know.

Ms White: I wish to highlight one comment in the report, which I am happy to endorse. One person's feedback said:

"I am enlightened and armed with some first class data on being a public petitioner. Well worth attending!"

I am sure that we will hear more from that gentleman.

The Convener: We should watch out for petitions coming in from that person.

John Scott: We should adopt the report's conclusions.

The Convener: Are members happy to do that?

Members *indicated agreement.*

The Convener: I thank members for their attendance.

Meeting closed at 12:47.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 20 September 2005

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron