

PUBLIC PETITIONS COMMITTEE

Wednesday 21 September 2005

Session 2

£5.00

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PUBLIC PETITIONS COMMITTEE

14th 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:

Sandra Clarkson (Prestwick Marine Neighbourhood Watch)

Linda Fabiani (Central Scotland) (SNP)

James Kelly (Helen Kelly Campaign)

Mary Milligan (Helen Kelly Campaign)

Joan O'Donnell (Prestwick Marine Neighbourhood Watch)

Iain Shaw (Renfrewshire and Inverclyde Association of Burns Clubs)

Iain Skene (Renfrewshire and Inverclyde Association of Burns Clubs)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Wednesday 21 September 2005

[THE CONVENER *opened the meeting at 10:01*]

New Petitions

Local Democracy (PE880)

The Convener (Michael McMahon): Good morning, everyone. Welcome to this morning's meeting of the Public Petitions Committee. We have received apologies from Sandra White.

The first of our new petitions is PE880, from Iain D Skene, on behalf of the Renfrewshire and Inverclyde association of Burns clubs, calling on the Scottish Parliament to consider and debate the issue of local authority democratic accountability—in particular, the accessibility of local elected representatives. Before being formally lodged, the petition was hosted on the e-petitions website and, in the period between 7 July and 26 August 2005, it gained 140 signatures. There were six comments on the e-petition, and the usual e-petition briefing has been attached for members' information.

Iain Skene is here to make a brief statement to the committee in support of his petition. He is accompanied by Iain Shaw. I welcome you both to the committee. You have a few minutes in which to make your statement, after which we will have a discussion on the issue that you have raised.

Iain Skene (Renfrewshire and Inverclyde Association of Burns Clubs): Okay, great. I have put down all the facts and our position as well as I can. I thank the committee for taking the time to hear our petition.

We come to you today as representatives of the Renfrewshire and Inverclyde association of Burns clubs. We are an organisation that is dedicated to fostering the memory, knowledge and enjoyment of the national poet. The association represents eight Burns clubs in the county, including the two oldest Burns clubs in the world, in Greenock and Paisley. Iain Shaw is a past president of the Greenock Burns club. The association is a public-spirited body and its club members contribute to various charities, such as the Jean Armour Burns Houses. In addition, the association runs an annual schools Burns competition, in which schoolchildren are encouraged to learn and enjoy Burns's poems and songs.

Almost 109 years ago, by an extraordinary effort of will, a large number of ordinary Paisley people raised a large sum of money to purchase what is perhaps the finest memorial to Robert Burns anywhere in the world. No doubt they felt that that statue would be a great source of public pride. Instead, they found their hard-won statue being ignominiously relegated to a deserted park that was far away from the town centre, while the great and the good of the town felt free to erect their own memorials in prominent positions.

The press at the time reported how cheated the public felt after they were denied the site that was originally planned for the statue, in the centre of Dunn Square. Even when the council was left in no doubt about the public's preferred site, by virtue of petitions and democratic votes, it still refused to accede to their wishes. The result is that, today, the statue lies forgotten and vandalised in a deserted park and the Paisley public as a whole derive no benefit whatever from that valuable work of art.

People have been trying for 109 years to have the statue moved. The Renfrewshire and Inverclyde association of Burns clubs began its own campaign in May 2003, with a letter to Provost Ronnie Burns, asking for a meeting to discuss our concerns and proposals. Today, almost two and a half years later, despite our best efforts, we still await that meeting.

The fact that we have found it easier to get a hearing from representatives of our national Parliament than from the ruling party on our local council is perhaps the clearest demonstration of the need for a local forum in which concerns and proposals can be raised and considered by members of the ruling group in each council. The Parliament's commitment to openness and accessibility is demonstrated today and we trust that you will give our position your most thoughtful consideration.

The Convener: Although your petition focuses on a specific matter, we have to generalise and debate it in terms of the accountability of local government. However, having heard what you have said, we understand what the issue is. If members want to ask questions, we can discuss the issue further.

Jackie Baillie (Dumbarton) (Lab): I will try to follow your advice, convener, and speak in general terms. However, given that the petitioners said that they have been at this for 109 years—although not personally—I wonder what we can achieve on their behalf.

I have a couple of general questions. First, in all the dialogue and the requests for meetings, did you get written responses that addressed the substantive issue that you were raising? As I am

sure you would acknowledge, MSPs and councillors often have hugely busy lives and cannot meet everybody. However, a written response addressing concerns can be acceptable.

Secondly, in my local authority, members of the public can lay down a question to be answered at a council meeting. Do you have a similar procedure, or are there any other opportunities or forums available to you to raise this kind of issue, rather than just directly with councillors?

Iain Shaw (Renfrewshire and Inverclyde Association of Burns Clubs): The first point can be illustrated by the initial letter on the subject to the provost that Iain Skene referred to, which remained unanswered for some time. I was contacted by the chief executive of the Robert Burns World Federation, telling me that the provost had told her that the council was considering a consultation process on the matter. However, the provost did not write to me. I wrote to him to complain about that; he apologised, but continued the same method of correspondence.

Another illustration of that point is that in spring this year some work was carried out to the park where the statue is situated. Two or three days before the work was completed, a council official wrote to me—I was then president of the Renfrewshire and Inverclyde association of Burns clubs—telling me that the work was going on. I would like to have been in the position to say, “We don’t think this is good. This has happened three or four times before. A lot of public money has been spent, the vandalism has continued and access has not been improved.” However, it was a bit fruitless to begin communication two or three days before completion of the project. The excuse was that funding had suddenly become available and that the council had not had time to consult.

Iain Skene: We made a complaint based on the fact that the council had gone ahead with the improvements without consulting us. It was subsequent to that complaint that we received a letter telling us that the improvements were going ahead. That was quite interesting. We have tried every possible means to contact the council. We have written numerous letters. We have attempted to telephone the council. On only one occasion has the provost taken our phone call and that was when the subject was going to be raised in council—not on an occasion originated by us, I might add. We have written to every councillor on Renfrewshire Council asking them to attend presentations giving our proposals and a history of how the problem has occurred. Every political group on the council responded and attended the presentations, apart from the ruling Labour group.

In the short conversation that I had with the provost, I explained to him that we had not originated the question and asked whether he

would allow a free vote on it. However, he said that on no account would that happen, because if any of the other political parties raise an issue in the council, it is automatically opposed. In the event, that is what happened. We have the terrible situation in which the ruling group on the council will not listen to what we propose and will automatically vote down any proposal by anyone who has spoken to us. That is an unhealthy situation for democracy and is much at odds with what we are doing today.

John Scott (Ayr) (Con): As the member for Ayr, I obviously have a significant interest in what you are saying. You claim that the Pomeroy statue is a world-class work of art. Do other people say that, apart from you? I do not want to be unkind, but you would say that, wouldn’t you?

Iain Skene: I am deeply in love with the statue, but I did not see it until I was about 25, which is remarkable, because as a young boy I used to walk past the park going to the racecourse in Paisley to play football. In later years, I used to go to Love Street, which is on the other side of the park, to watch St Mirren play—I still occasionally go there. However, I did not know that the statue existed until I was about 25. When I saw it, the impact was incredible. The feeling that you get is that the statue has arrived from outer space because it looks so fine, while the park is so nondescript and isolated. It is even next to a joke fountain, which would be funny if the statue was not there.

“The World’s Memorials of Robert Burns”, which was published in 1911 in Boston, lists the Paisley Burns statue as one of the finest Burns statues in the world. It also mentions one of the copies of the Paisley Burns statue, which is in Sydney, Australia, as being a fine statue. After the Sydney statue was erected, another one was erected in Auckland. Both those statues have achieved tremendous acclaim. The person who produced the statue, Frederick Pomeroy, might be better known to the committee as the man who fashioned the golden statue that represents justice above the Old Bailey in London, with the sword and scales. If one follows debates in the House of Commons, when the members adjourn to the lobby, one can see a statue of Gladstone that was done by Pomeroy. On the fountain outside Buckingham Palace, the figure that represents Australia was fashioned by Pomeroy.

We are talking about a seriously valuable work of art that is in the middle of Paisley. I love it and most other people who see it love it, too. If it is not the finest Burns memorial in the world, it is certainly among the finest. It portrays Burns as a man and a strong farmer rather than as an aesthete. It is a glorious work of art.

Iain Shaw: I, too, am from Ayrshire and I am well acquainted with Burns Statue Square and the beautiful statue of the bard there. I am an Ayrshire man, but I reluctantly had to admit that the Pomeroy statue in Paisley is a finer statue than the one in Ayr. I am sorry to have to say that. To move away from the Burns world, Mr Stoddart, who is the local sculptor in Paisley and an accomplished artist, rates it as one of the finest statues in the world. In his words, it is the finest work of art that Renfrewshire Council owns.

John Scott: In that case, there must be a reason why, after 109 years, no one has thought it sensible to site the statue where you suggest the public wish it to be sited. Why is the local authority flying in the face of such overwhelming evidence? You must have your own ideas about that, despite the apparent lack of communication with the council.

Iain Skene: We have our ideas about that, although one of them is probably a bit on the scurrilous side, so we will not share it with the committee. There may be political considerations in play. I believe that the Labour Party has a majority of one on Renfrewshire Council and, in the Shortroods ward, which surrounds the area where the statue is, its majority is not the biggest. If there is opposition to moving the statue, it comes from the area directly surrounding it, even though the park is very poorly attended. Perhaps the Labour Party sees the issue as a bit of a vote loser locally. If the party was to lose the Shortroods ward, it could lose control of the council.

10:15

John Scott: I see.

Iain Shaw: The reason that has been repeatedly put forward is finance. However, quotations that we received show that it would have been cheaper to move the statue than to have the parks upgraded and tidied up—and the effect of that work will not last long. The usual reason that is given by the council is finance, but that has been negated by its own actions in recent months.

Iain Skene: The council spent £100,000 doing the park up and placing floodlights round the statue. However, the cost of moving the statue would have been about £10,500.

John Scott: If you feel that the council has not responded to you with courtesy, have you considered speaking to the Scottish public services ombudsman on the subject?

Iain Skene: Yes, as a matter of fact, I have considered consulting the ombudsman, and we have notes on the matter. We might keep that option in reserve for the future. However, we

spoke to Wendy Alexander about what to do next—I am bound to say that of the politicians whom we have contacted so far, Wendy, with the exception of the Public Petitions Committee, has been the only one to render any positive assistance. One of her suggestions was that we contact the Scottish Parliament. Personally, I thought that it was a bit of a long shot, but I visited the Parliament not long ago and found that there was a commitment to openness and accessibility. That struck a chord with me, because we are fighting against insularity and secrecy: the council will not talk to us.

It was at that point that we decided to contact the Scottish Parliament. We have used virtually every means possible. The only one that we have not attempted so far is to contact the ombudsman. We do not know what effect that would have, because I understand that his role is to investigate irregularities. However, we have that option in reserve and we will try it in future.

Another thing that gives us tremendous grief is that although the council has gone to elaborate lengths to ensure that it does not meet us to discuss the matter, it still appears regularly in the press stating that it has listened carefully to all our arguments. I am sorry, but the council has never spoken to us, let alone listened carefully to all our arguments. I defy the council to cite an occasion when it has spoken to us.

One councillor attended a presentation that we gave, out of desperation, to a local Labour group. She was opposed to our coming but, even so, the local Labour group voted to approach the council to ask that our arguments be heard. Even though we wrote to the council, the councillor whom we approached did not respond. When pushed, he put us on to the local tourism chiefs. Once again, no Labour councillors turned up at the meeting.

The Convener: I am interested in what you have to say. We have debated how appreciative Scotland in general is of our Robert Burns heritage. I understand your frustration, for we have had numerous petitions trying to promote the interest and value of Burns to Scotland. That is important in itself.

However, the petition today is about how we address a lack of accountability at local government level. Having been a member of the Local Government Committee or the Local Government and Transport Committee for most of the Scottish Parliament's existence, I know that the Ethical Standards in Public Life etc (Scotland) Act 2000 tried to address issues such as codes of conduct for councillors and the laying down of standards. The ombudsman can also be approached if you have concerns. Do you have any suggestions about what is missing from the

area of accountability that we could address or take up on your behalf?

Iain Skene: The petition is about precisely that. There should be an automatic forum and a direct channel to the ruling group in any given council. I stated in the petition that I have been a staunch Labour supporter for most of my life, until relatively recently. I used to work for the Labour Party, I was a party member and all my family were party members until quite recently. In recent times, I have not felt that I could support the party.

So I am a Labour supporter by instinct and our local councillor is a Liberal. My political persuasion does not matter because, according to the provost, if anyone from any other party than Labour raised the matter, it would be voted down automatically. If I raise the matter with my local councillor, I will not succeed.

We want a forum where, on a monthly or weekly basis, the ruling group in the council meets members of the public either singly or in a group—I would prefer singly—so that they can express their concerns and proposals for the benefit of the town. If we have a situation where the ruling group on the council is completely isolated from and out of touch with the electorate, it does not make for good government.

Helen Eadie (Dunfermline East) (Lab): Do you think that it would be worth while for councils throughout Scotland to have public petitions committees?

Iain Skene: That is a very good idea.

Iain Shaw: If we could have lodged our petition at a local level and spoken to councillors who knew the situation, it would have been no more and no less than what we seek today. Having local public petitions committees would represent a massive step towards what we are looking for.

Helen Eadie: In most local authorities in Scotland, councillors have advice surgeries. Have you gone to any advice surgeries with the matter?

Iain Skene: We have spoken to a number of councillors. I spoke to my local councillor and she said simply that the Liberal group supports our plans to move the statue and that if any vote comes up, the group will support us, but it will not succeed because the Labour Party votes en bloc. We also spoke to a number of Labour councillors who told us that they support the moving of the statue but will not vote for it because they are instructed to vote en bloc.

Helen Eadie: I have a general comment that could apply to any councillor in Scotland holding an advice surgery. Someone could go and see their councillor, who would explain the policy position of the council, but the councillor would almost always say, "Well, that might be the initial

reaction, but I will nevertheless write to the chief executive on your behalf." Did your councillor offer to do that?

Iain Skene: No.

Iain Shaw: Our councillor has written to officials, who have corresponded with and met us, but not to the chief executive.

Helen Eadie: As you seemed to be meeting all those barriers, I wondered whether your councillor had asked the chief executive to organise such meetings. Quite often, that is the process by which such situations are approached. Obviously, it varies throughout Scotland. That relates to John Scott's point about the ombudsman and making sure that the processes have all been undertaken properly.

Iain Skene: We know that the Labour group has been approached by different parties. After we started our campaign, we found out that, a few months previously, the Scottish National Party had approached the Labour group on the same subject and asked whether it could move the statue. That is on-going. We know that the SNP raised the matter in the council because it lodged a motion asking the council to study the feasibility of the moving of the statue. It is interesting that the council used that motion to lodge a counter-motion opposing the movement of the statue.

We wrote individually to every councillor on Renfrewshire Council to ask them to consider the situation and to set out the bones of what we wanted to do. Only members of non-Labour groups in the council came to our presentations.

The Convener: I think that we have asked all the questions that we need to in order to get a picture of the situation.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning, gentlemen. You have certainly had an uphill struggle. I am sure that our national bard would have composed a poem about it on the theme of man's inhumanity to man.

Iain Skene: I am sure that he would have done.

John Farquhar Munro: Have you determined why there is such a strong objection to what you propose? You have a statue that professional people consider to be a work of art that is not in an ideal situation and you want to move it to a central focal point. Why is there such a strong objection to that?

Iain Shaw: I do not think that there is such a strong objection. We know from speaking to individual councillors that the SNP and the Liberal Democrats are on board, along with several, if not numerous, members of the Labour Party, as Iain Skene said. It is just that when the matter goes to

a council vote, the Labour Party's block vote kicks in and our proposal is defeated. That happens continually simply because of the way in which the politics work. When we speak to individual councillors, they tend to be strongly in favour of our idea. Our difficulty would appear to be who has the objections rather than what the objections are.

Iain Skene: I would like to reiterate what I said earlier. The provost told me on the phone that if the matter was raised by any other group on the council, it would automatically be opposed by the whole Labour group.

John Farquhar Munro: In your efforts to get recognition, have you identified a location to which the statue could be transferred?

Iain Skene: We have identified a number of possible locations. It is interesting that the issue has been talked about for a long time. Back in 1948, a plywood copy of the statue was made and stuck at the end of Cotton Street in Paisley. That would make a fine site for the statue, as would the circular flower-bed that is close to the one-way system and almost in the grounds of Paisley Abbey. When the statue was erected, there was a lot of talk about putting it in the abbey grounds, but it would dwarf the statues that are already there. It was originally intended to go in the centre of Dunn Square in Paisley, but a number of shenanigans went on that caused a tremendous furore in the town. The people of the town were denied the site at the centre of Dunn Square after they had raised the money for the statue and it had been made. That is why it finished up in the forgotten backwoods of the fountain gardens.

There is another suitable location in Paisley, at the top of New Street. I always get New Street and Moss Street mixed up—you would not think that I had lived in Paisley all my life. The site is just outside the Liberal club. Before the Liberal club was there, there was a building—which was demolished—that was the home of a Dr Alexander Taylor. Burns stood on that spot, went into the house and apparently got uproariously drunk. Burns did not do that as often as people might think, but Paisley does that to people—I must not say that, as I do not really mean it; I am just being humorous. Given that Burns visited that house, we thought that it would be an ideal place to put his statue.

John Farquhar Munro: If you got local authority agreement, there would be plenty of choice. If your campaign managed to raise the £10,500 or whatever it costs to transfer the statue—I am sure that you would get support from many Burns clubs throughout the country, if you had a fundraising campaign—might you get the council's approval to do the transfer privately?

10:30

Iain Skene: I do not think so. In the past, we have been offered funds from various sources. No one has said that they would raise the full £10,500, but I am sure that a reasonable sum of money could be forthcoming. It does not seem to be an issue of cost for the council, which spent £100,000 on improving the park in which the statue is located and £50,000 on the little area outside St Mirin's cathedral in order to erect a monument—it is not quite a monolith, because it is made of several stone slabs—to St Mirin.

There are two issues. First, no one visits the park and the statue has been seriously vandalised. About 10 years ago, a youth fell from the top of the statue and was killed. The problem is not just that the statue has been vandalised and that it is not seen. Paisley could also do with a statue of this calibre in the town centre. The heart of the matter is that the statue was designed for the town centre. The money for it was raised by the people of the town, for the benefit of the town. It is therefore a great pity that the statue should have been put in such an ignominious situation.

Jackie Baillie: I will make one comment before asking a question and making some recommendations. Having worked in different parts of Scotland, I am conscious of the fact that political parties in general operate block voting systems, including in this place. That is not a peculiar feature of Renfrewshire or of one political party—they all do it.

Iain Skene: I accept that.

Jackie Baillie: I need to be clear about who has responded to you. Clearly, you have received responses from officials. I am picking up from you that, in those responses, they have given reasons for not moving the statue. In some cases, you have received a verbal response from councillors, but they have not attended presentations. Am I correct in saying that none of them has written back to you to address the substantive point?

Iain Shaw: It is not quite the case that we have been given reasons for not moving the statue. It has been treated as an on-going matter. No one has ever said to us that the statue will not be moved. The only exception is the vote that was taken at full council, at which the amendment won the day, as Iain Skene said. We have never received any verbal or written communication indicating that the council will not move the statue.

Jackie Baillie: It is helpful for us to know that.

Iain Skene: Interestingly, at one point a representative of the parks and leisure department contacted us, after we had gone to a lot of trouble to contact people at the council. We invited the chap to meet us and talked to him about the

statue. He knew a bit about it. He knew from a previous report that the statue's plinth was deteriorating seriously because of continued vandalism. We outlined to him the general principles of what we wanted to do, but he said that we would not be able to do anything unless we had the support of the Labour group. We said that that was exactly where we were coming from and that we wanted to speak to either the whole council or the Labour group. Speaking to the rest of the council was not a problem and we knew that it supported us. The official from the parks and leisure department said that that was a good idea and that he would arrange a presentation to or meetings with the Labour group.

Subsequently, I took the trouble to correspond with Wendy Alexander to let her know what had occurred, as it sounded like the first positive thing that we had heard for quite a while. When I contacted her, she expressed amazement, because several days beforehand she had received a letter from the leader of the parks and leisure department telling her that it was most unlikely that the statue would be moved. That happened even before our conversation with the chap from the parks and leisure department. When we subsequently contacted him, he initially expressed amazement that a letter had been sent out prior to our meeting, and then refused to take our calls.

Jackie Baillie: That is helpful. That information is all in our papers.

Can I perhaps suggest some recommendations, convener? I do not want to stray into the specifics of the example that has been given. However, we have had quite a bit of discussion about Renfrewshire Council and I wonder whether it would be appropriate to write to it not about the location of the statue but about the underlying principle of accountability, to enable it to respond to the petition? We should write to the Scottish Executive, the Convention of Scottish Local Authorities and perhaps the Electoral Commission in Scotland about the general principles raised by the petitioners.

The Convener: Those are good recommendations. Do members agree that we should carry those out?

Members indicated agreement.

The Convener: I thank the petitioners for bringing their petition to the committee. We will keep you updated on the responses from the various bodies. We will see how far we can take the petition for you.

Iain Skene: Thanks for your attention.

Iain Shaw: Thanks. We appreciate both the attention that you have given us and your recommendations.

Iain Skene: The idea of having a local petitions committee is a really good one—I do not know why we have never thought of that.

Environmental Protection Act 1990 (PE884)

The Convener: The next new petition is PE884, by Sandra Clarkson, on behalf of Prestwick marine neighbourhood watch. The petition calls on the Scottish Parliament to urge the Scottish Executive to amend the Environmental Protection Act 1990 to ensure that local authorities keep beaches free of litter and refuse throughout the year. Sandra Clarkson, who is accompanied by Joan O'Donnell, will make a brief statement to the committee in support of the petition.

Sandra Clarkson (Prestwick Marine Neighbourhood Watch): Mrs O'Donnell will make the opening statement.

Joan O'Donnell (Prestwick Marine Neighbourhood Watch): I am the chair of Prestwick marine neighbourhood watch. We have three reasons for raising the petition on behalf of the residents and visitors who come to Prestwick. The first is the state of our beach. As the petition says, the state of the beach was shocking before Easter. There was a dead sheep and a dead seal. Rats had been spotted and reported and there were syringes. That is definitely a health and safety issue.

We raised the matter with South Ayrshire Council, but it told us to ask the residents of Prestwick to clean their own beach. I am sorry, but we pay council tax to get such a service and we would not be covered by liability insurance if somebody was cut or pricked with a needle and ended up with HIV or AIDS. A supervisor in the South Ayrshire Council beach-cleaning department told me that, if he could keep the four men that he has besides himself for the whole year, the beach could be kept clean and supervised—there would be no litter or anything on it during the winter months.

We were promised that the beach would be cleaned up for the Easter weekend. The council is on the record as saying that the beach was cleaned up for Good Friday, but it was not. The council sent a chap to clean the beach on the Saturday of the Easter weekend, but the photograph that I have given the committee in evidence shows that the state of the beach was so bad that he could not clean it up on his own—100 men could not have cleaned it up.

We contacted South Ayrshire Council, as it has asked us to clean our beach. The beaches at Ayr and Troon are cleaned five days a week—Monday to Friday—but Prestwick beach gets two hours of attention on a Monday, Wednesday and Friday. We were told that damage to the environment happens at Prestwick, but why does it not happen at Ayr and Troon, where the beaches are cleaned five days a week?

The second issue is vandalism. South Ayrshire Council has paid more than £7,000 to deal with one incident of vandalism and antisocial behaviour. There were two sets of toilets on the esplanade, but there is now only one. South Ayrshire Council wants to close the toilet seasonally, which means that we would lose it for seven months of the year. There will be no toilet from 1 October to 30 April. What should young children or old-age pensioners do? Should they cross their legs and hope that they can get back up to the town, where there is a black box in which people must put 20p? The box will take the money but not open the doors half the time and the toilet has been vandalised three times in the past year.

We have asked for closed-circuit television cameras. Ayr and Troon have had problems on their esplanades and Prestwick has a major problem. We asked for cameras because youths are running wild and there is underage drinking, which is a big problem, but we were told that there was no money. What is good enough for Ayr and Troon should be good enough for Prestwick. We have contacted the community safety department and the antisocial behaviour team of South Ayrshire Council and the police, but we have got nowhere. Prestwick's death certificate for seven months of the year will be signed if South Ayrshire Council continues to give Prestwick what it currently gets.

The Convener: Thank you for the information that you have given us. The European Union repeatedly assesses the quality of beaches and Scotland does not have a particularly good record in that respect. What is required from the Environmental Protection Act 1990 to address the quality of beaches? You have raised a few issues, including CCTV cameras. I do not know whether the 1990 act impacts on such things. Is there scope for it to do so?

Sandra Clarkson: South Ayrshire Council stated that the act requires it to clean the beach only from 1 May to 30 September. We are asking for that period to be extended from 1 March to 31 October.

I have a business—a hotel—on Prestwick's seafront. Our family has been in business for 70 years and I know from the passenger profile that people do not start to come to Prestwick on 1 May and go home on 30 September. March and April—

the Easter months—and October are just as important as the period from May to September. We are asking for the beach to be kept free of litter and clean from 1 March to 31 October and for monitoring at least in the winter months.

We cannot remove dead animals and trees by ourselves. If the beach is properly kept, it will not take six weeks from 1 May until the middle of June—as it did this year—to get it into a fit state so that people can walk safely on it. We are merely asking for the act to be amended to cover a more appropriate period. The beach could then be free of litter from 1 March to at least 31 October and safe for people who come to Prestwick.

The Convener: There would still be a period in which no one would be responsible for cleaning the beach. You mentioned dead animals. If there were dead animals on the beach in December, how would they be dealt with?

Sandra Clarkson: I am simply asking for work not to cease on 31 October and for the beach to be regularly monitored at least once a week so that animals are not left to rot for three or four months. Dead animals attract rats, for example. Somebody should go down to the beach at least once a week and report what must be lifted. If there is nothing on the beach, that is fine, but there should at least be regular monitoring during the four months of winter. Such monitoring would alleviate our problems at the beginning of the season.

Members will see from our correspondence with South Ayrshire Council earlier this year that we have been told half-truths at best; at worst, the council does not even respond to us. Brian Davidson, who is South Ayrshire Council's director of environment and infrastructure, has asked, "Who goes to Prestwick anyway?"

The Civil Aviation Authority has released figures that show that Prestwick airport is one of the fastest-growing airports in the United Kingdom. More than 2.5 million passengers will be delivered to it this year alone. Proportionately, Prestwick airport delivers more inbound tourists to Scotland than any other airport does. Those who come into Prestwick by air include golfers, who will come for two to five days and stay in the area. Other people will arrive, hire a car, spend a night in Prestwick and go to Oban, Inverness, Aberdeen or Edinburgh. Such people deliver economic benefits to the whole country. Moreover, VisitScotland is exhorting hotels and bed and breakfasts to improve the standard of their catering and accommodation.

We are asking that South Ayrshire Council at least improve the standard of the beach. It is letting us and Scotland down. The matter is not

just about residents, because health and safety issues are just as important to visitors.

10:45

The Convener: I appreciate that.

John Scott: Good morning, ladies. Do you have any idea of the number of tourists who used the beach over the Easter period? Would you care to speculate how many more might have used it had it been clean? I appreciate that that is a difficult question.

Sandra Clarkson: That is difficult to answer. I can only say that, over the Easter period, Good Friday was a particularly good day and the beach was busy. That is why we know that it was not cleaned, because people who came in for a meal were saying, "We can't go on the beach. It's in a disgraceful state." They wrote letters.

We became frustrated by the lack of response and accountability from South Ayrshire Council. We said that the beach was not cleaned before Easter, but the council said that it had been and that the litter had been picked up. We said that that had not been done until the Saturday morning. Why was it necessary to put a council worker on the beach on Saturday morning to clean a beach that the council said had been cleaned on the Thursday? The council said, "Oh no, it wasn't done on the Saturday morning."

When we took the petition on to the streets, people from the central belt said exactly the same thing—that the beach was in a disgraceful state. Where do they go? I cannot put a figure on how many people are on the beach; I can only look out and say, "Beautiful day, there are lots of people there."

John Scott: You said that the lack of toilets discourages people from attending the beach and other beaches in Ayrshire. Can you be more specific about that?

Joan O'Donnell: Burgh Road toilets have been shut because of the amount of vandalism or antisocial behaviour—whatever you want to call it. More than £7,000-worth of damage was caused in one weekend. There is no intention to open the toilets. We have been told that if and when the council has the money, the toilets will be bulldozed. Because of vandalism, we have lost a small pavilion that was there for hundreds of years.

People keep attacking the only toilets that we have left. The council has had to put metal gates on them. It does not help that the toilets are opened at 9 o'clock in the morning but shut whenever the man sees fit, even though he is paid until 9 pm. They could be closed at 4 o'clock in the afternoon when the beach at Prestwick is jumping

with young children. Why does that happen when the man is paid until 9 o'clock? It is our only toilet on the shorefront. As Sandra Clarkson said, she owns a business on the front and she gets a lot of people asking to use her toilets. It is not fair on her or her guests when people come in and start shouting and bawling, "Where is the toilet?" because there is no toilet for them to use.

John Scott: Yes, it is not helpful.

Joan O'Donnell: The picture that I am holding shows the situation on Prestwick beach on Easter weekend.

Jackie Baillie: I am sure the petitioners will not take this unkindly, but matters to do with toilets and CCTV should properly be pursued with your local council, which I do not doubt you will do vigorously.

Joan O'Donnell: We have done that.

Jackie Baillie: I have a general point. Correct me if I am wrong, but the issue is not the volume of visitors to the beach, because you are after a framework that ensures that all beaches in Scotland are appropriately cleaned. That is certainly the aim of the petition. Is the problem with the Environmental Protection Act 1990 or is it with the guidance that was issued by the Department for Environment, Food and Rural Affairs, which refers to designated amenity beaches?

Joan O'Donnell: It is a bit of both. Ayr beach was recently voted one of the 33 dirtiest beaches in Scotland. Unfortunately, when the tide comes in, the water from there comes round to Prestwick, so we get whatever Ayr throws at us—afterwards, it goes on to Troon and right down the coastline. I do not know how to fix that. However, if the beach was kept clean, people would use it. The beach is so bad that I do not let my grandchildren on it and I do not go on it.

It is shocking that South Ayrshire Council asked residents to clean up the beach. There is a scheme in North Ayrshire in which people who are doing community service and so on clean the beaches. I asked South Ayrshire Council why it could not organise something similar, but all I got was a blank expression.

Despite going through every department and despite contacting our councillors, our MSP and our MP, who took a petition to the House of Commons for us, the state of the beach is still ridiculous.

Sandra Clarkson: The problem is also the lack of response from South Ayrshire Council. I wrote to the provost twice in June, but I have yet to get a response. Our MP, Mr Donohoe, contacted South Ayrshire Council three times over the weekend, but as at 10.15 pm last night he had had no

response. There has been a continual lack of response or we have been fobbed off with claims that there is no money in the budget, for example.

The committee will have heard of the problems last year of vandalism on the beach. We got a new chief inspector of police in early spring this year and he said the same thing: he had limited resources. However, having a fresh pair of eyes, he has managed to redeploy his men. There is now a police presence on Prestwick seafront and the vandalism has been reduced. Surely South Ayrshire Council can find resources in its budget to redeploy men to clean Prestwick beach at the same time as Troon and Ayr beaches are cleaned.

Helen Eadie: We can all agree that this is one of the areas of European Union activity that we are all pleased about. The EU helps to improve the state of beaches throughout the United Kingdom. I am pleased to say that Fife has four blue-flag beaches and that the number of such beaches in Scotland has grown. However, I am keen to learn from you about your interaction with the Marine Conservation Society. Have you heard examples of best practice in other local authorities in Scotland for remedying problems? I live by a beach and I understand how important it is for your environment to have a nice beach. I sympathise with you in that regard. What feedback have you had from the Marine Conservation Society?

Joan O'Donnell: I have been on to the society several times and we have e-mailed back and forth. Basically, it told us that residents need to help with clean-up. Unfortunately, litter is dropped not only by residents, but by visitors. There is a lack of bins on the beach. For the past two years, we have asked South Ayrshire Council to provide more bins to ensure that there are plenty for visitors to put rubbish in, instead of throwing it on the beach. Unfortunately, extra bins have not appeared.

The existing bins are bolted down, but vandals rip them out and throw them on the beach, which does not help the situation. We were told to get as many people as we could to clean up the beach. I asked our local councillor to find out what council in Scotland had had help to clean up beaches in the past five years—the answer was that none had. Therefore, do we start cleaning up our own beach? If we do, what will South Ayrshire Council ask us to do next? Will it ask us to brush the esplanade or empty the bins? The council is asking residents to find funding this year for civic flower planting in Prestwick next year, because the council does not have the money for it. Where does it all stop? The beach is a main asset of Prestwick.

John Scott: It seems that the situation that has been described is the missing link in the chain.

Tourists are now coming to Ayrshire because it is essentially the riviera of Scotland, as the two witnesses and I would agree.

Helen Eadie: Fife is the riviera of Scotland. Fife has wonderful beaches.

John Scott: They will also agree that the quality of the bathing water is now high because the Scottish Water sewerage systems that were put in some years ago now pump the sewage up to Muirhead. The one weak link in the chain is that the beaches are not being cleaned; everything else, apart from the toilets, is in place. If the group that you represent can help to address the problem, people who live there will be very grateful.

Joan O'Donnell: At the weekend, the sewerage pipes burst at Prestwick airport. The cars were under sewage all weekend.

John Scott: No, they were not. I was well aware of the burst and the cars were certainly not under sewage.

Joan O'Donnell: They were pumping it out on Monday.

The Convener: Anyway, we are not discussing that matter.

Jackie Baillie: What an attractive thought.

I am happy to make the general recommendation that we should write to the Executive and the Scottish Environment Protection Agency. However, when we write to the Executive, we should be specific about whether the problem is the Environmental Protection Act 1990, as stated in the petition, or the guidance. I am aware that, after reviewing the guidance, the Executive has decided that more clarity is needed. Is it proposing to introduce revised guidance? Will it address the points that have been made? Such an approach is probably the most helpful not just for any local authority in particular, but for all Scottish local authorities.

John Scott: Perhaps we should also write to the Convention of Scottish Local Authorities to find out whether local authorities feel that the guidance is not clear. Moreover, as we have heard only one side of the story, it might be fair to give South Ayrshire Council an opportunity to respond to the criticisms that have been made. Do other members find that helpful?

The Convener: I think so.

Helen Eadie: I agree with all those recommendations, but perhaps we should also ask the Marine Conservation Society for its observations.

The Convener: We will write to all the organisations that have been mentioned. When

we receive their responses, we will apprise the petitioners of what has been said and discuss the matter further.

Joan O'Donnell: Thank you.

Sandra Clarkson: Thank you.

Medical Negligence (PE866)

The Convener: Petition PE866, by James Kelly, calls on the Scottish Parliament to consider and debate the need for an independent body to investigate claims of medical negligence. James Kelly, who is accompanied by Mary Milligan, will make a statement in support of his petition, after which we will discuss the points that have been brought to our attention.

James Kelly (Helen Kelly Campaign): I thank the committee for giving us the opportunity to come to today's meeting. We are calling for an independent body to be set up in Scotland to investigate claims of medical negligence. We believe that we have put before the committee evidence that shows that we, as victims of medical negligence, are not having our claims investigated properly.

The present system allows the medical profession to police itself. After carrying out independent investigations into claims, we have reached a different opinion to that of doctors and are, in fact, able to show that this is a working-class issue. For example, we know that we will not get treated at the weekend in the neurosurgical unit or the accident and emergency unit in the finest hospital in Scotland. That is shocking.

The Convener: We will expand on your statement with questions from members.

Helen Eadie: First, I extend my condolences to Mr Kelly on his sad loss. At the weekend, I visited the campaign's website. It is very clear and concise; I congratulate the campaign on that.

Will you explain to us how the process has evolved since the loss that you suffered? What interaction has there been with health service authorities?

11:00

James Kelly: Until we get a positive opinion from a neurosurgeon to the effect that Mrs Kelly could have survived, we can make no claim against the national health service. For claims such as the one involving Mrs Kelly, who was discharged from hospital with a subarachnoid haemorrhage, we are required to have the opinion of a neurosurgeon on whether the patient was treated properly. For a neurosurgeon to give such an opinion, he needs a computed tomography scan, a lumbar puncture examination and an

angiogram. He also needs to know the patient's condition at the time. If, as in this case, there is no CT scan, lumbar puncture examination or angiogram and the neurosurgeon does not know the patient's condition, he assumes that the patient was well.

The issue seems to be not how quickly patients can be treated, but for how long their treatment can be delayed until they have a fatal bleed. We can show that we, the taxpayers, are paying for basic treatment to which we cannot get access because of doctors' mistakes.

Last Monday, we took our protest to the Southern general hospital, which has a first-class neurosurgical unit. As doctors had refused to answer our specific questions, we decided to take the issue to the door of the chief executive. He told us that, if we wrote to him with our concerns, he would answer them. However, he has not answered them.

I put to the chief executive the opinion of the neurosurgeon who stated that even if the patient had been admitted to hospital on Sunday and received an angiogram that revealed a treatable aneurysm, the treatment would not have started until Monday. However, before I was able to finish my statement, the chief executive said—in front of witnesses—that the aneurysm would have been clipped. We are getting two different opinions.

Also, when we have made inquiries to the neurosurgical unit, the unit has claimed to be a 24-hour service that is resourced to treat patients in emergencies. However, the neurosurgeon's opinion is that that is not the case. As victims of medical negligence, we simply want to know the truth. All that we ask is that we be told the truth and that someone be held accountable.

Mary Milligan (Helen Kelly Campaign): When the NHS is accused of negligence, the claim is listened to by a doctor. However, doctors cannot make unbiased decisions: they have a fatal conflict of interests. That is what Dame Janet Smith said in the Harold Shipman inquiry. She said that the culture in the General Medical Council was to protect doctors rather than the needs of patients.

We are not the only family—Helen Kelly was my sister—to suffer such a loss. Since starting the campaign, other families have contacted us and sent information. One issue that has been highlighted is fabrication of evidence. To suffer such a death in the family is bad enough, but it only adds insult when doctors investigate themselves and cover up issues. We are being denied justice.

If Helen's death was due to a lack of resources in the NHS, as working-class people we could accept that not enough money is going into it.

However, her death seems to have been due to negligence and mistakes by doctors, which have then been covered up.

As I said, ours is not an isolated case. Because of the website and because of our protests, people are now sending us documentation. My sister was the third person to be discharged from Crosshouse hospital with a subarachnoid haemorrhage. How many people need to die before the hospital admits that it is accountable?

James Kelly: When we put it to the hospital that Mrs Kelly was the third person to have died in that way, the people at the hospital asked, "Was it the same doctor?" Does it need to be the same doctor? There is a CT scan facility in Crosshouse hospital, but it seems that it cannot be accessed at weekends. The doctors claim that it can, however.

Mary Milligan: The hospital does not confront those issues. It fabricates times and so on. My sister's blood pressure was not taken at the hospital—I know that because she was accompanied the whole time—but the doctor says that it was and no one will go against the doctor. He said that he remembers the time at which my sister was discharged, because he distinctly remembers handing her the letter. However, my sister was never handed a letter; it was posted to her doctor. When the evidence was produced, however, we were faced with a closed shop—the hospital refused to discuss the situation any further.

Doctors should not investigate themselves. There needs to be an independent body to investigate claims such as ours. If such a body were to say that nothing could have been done, that would be fine. However, it is a different matter when you are left feeling that an injustice has been done and a huge cover-up is going on.

Dame Janet Smith, the head of the inquiry into the Shipman case, said:

"The culture of unwillingness to report doctors is still there. It must go. There can be no room today for protection of colleagues when the safety and welfare of patients are at stake."

She headed a Government inquiry. Why is the Government doing nothing about the situation that she talked about?

Helen Eadie: We are, of course, considering the general case in relation to the national health service. Is the legal advice that you have had on-going and has your lawyer made any recommendations in relation to this general area?

James Kelly: When you are a victim of medical negligence, the matter goes to the procurator fiscal's office, which sends the details to a doctor. The doctor says, "No, I would have done the same thing," so there is no inquiry. You then go to a

solicitor and give him the details. However, he does not investigate the case; he must send the case notes to a doctor, who must respond with a positive report before an investigation starts.

We demonstrated that Mrs Kelly should not have been discharged. Now, however, we have to prove that she would have survived had she received the appropriate level of care. The doctor must decide what to do with a patient but, if he has no information on that patient, how can he make a clinical judgment? That is the question that we are asking the hospital. We are talking about a doctor in the neurosurgical unit who assumes that all patients are well until they are investigated. We have doctors claiming that no treatment or investigation could have been carried out until Monday. However, if members look at medical literature, they will see that treatment of a person who has been diagnosed with a subarachnoid haemorrhage must start immediately. However, we have a doctor saying that, if the angiogram had been performed on Sunday and had showed an aneurysm that was treatable, treatment would not have started until Monday.

Why did the doctor violate human rights? Withholding or withdrawing treatment is a breach of article 2 of the European convention on human rights. When we took our case to the human rights people, we got a letter back that shocked us. It said that they did not think that they could take our case forward because the doctor did not intentionally kill my wife. That is shocking. We did not say that the doctor did it intentionally. We should all get treatment, regardless of how much we have in our pockets.

This is a working-class issue. The benefit of using medical literature as a basis for decisions that are made in hospitals, which we would like to happen, is that medical literature does not judge a patient or a doctor; it says how the patient should be treated, what treatment is available and what the treatment can do. It says that people such as Helen Kelly can survive but that, without any treatment, their situation is like a time bomb waiting to go off.

We are told that discharging Helen made no difference. That is rubbish: stress can cause a bleed, as can coughing, sneezing, intercourse, going to the toilet or heavy lifting, but they say that discharging her made no difference. We want to know the truth. We want to be judged by independent people, not by people who have a conflict of interests.

Jackie Baillie: I do not particularly want to delve into the circumstances of the case; I would like to pursue the question of an independent body and ask a genuine question. I am not medically qualified. People rely on doctors to interpret medical information for them. You are right to ask

whether there is a conflict of interests; we are considering a similar set of provisions for the legal profession. Do you envisage that there would be doctors on such an independent body? I suspect there is an issue about lay people being able to second-guess medical procedures.

James Kelly: We, as lay people, undertook an investigation. We approached the hospital under the Freedom of Information (Scotland) Act 2002, but the doctors told us that they were not resourced. If you write to the hospital and they do not know that there is a claim of medical negligence they will say, "It is a 24-hour unit", but when a doctor is aware that there is a claim of negligence, the shutters go up. We want the shutters to be taken down. We can all read—although some of us have difficulty—and understand books. Do we need to get a doctor to tell us what the books mean? We can see the information.

Mary Milligan: Obviously the body would need to include people with some kind of medical expertise, but it would also need lay people who would look at the facts and figures. I have here a summary of the NHS complaints procedure by the Executive, which states:

"The main causes of dissatisfaction among complainants are operational failures: unhelpful, aggressive or arrogant attitudes of staff, poor communication and a lack of information and support."

Staff automatically go on the defensive, because we are accusing them of negligence. They must be defensive; they cannot be unbiased. We need doctors on the body, but we also need lay people who will look at the facts and figures and say, "There is something not right here. The times aren't right. There is no blood-pressure reading. There is a fabrication of evidence." We have evidence to back up complaints, not just from us but from other families who have been in touch with us through the website.

James Kelly: For example, we asked a doctor whether the bleeding could have been caused by the stress of having to get up one day to get ready to see the doctor. The neurosurgeon had said, "Assuming that the patient is well, I will allow them to be up and about." We wrote to the doctor and said, "Assuming the patient was not well enough to be up and about, could that have caused the bleed?" He is supposed to be open and honest, but he refused to answer the question.

Mary Milligan: There were incidences in the initial complaints procedure of the hospital refusing to answer questions and of its solicitor advising it not to discuss the matter further. That leaves us feeling that we have been treated unjustly. If an independent body had considered the complaint, taken the time to go through it and said, "This is the truth. This is what's happened" we would have

grieved, but we would not feel that we had been unjustly treated.

Jackie Baillie: I understand entirely what you are saying. I am reassured by the fact that you think that the body you suggest would require medical expertise. The issue is about balance and ensuring that lay people are on it, too.

James Kelly: There are ways of doing that. When you say to a doctor that there is a claim of negligence, the shutters go up. Somebody needs to look at that and ask how we can get the information without people knowing that their colleague is in trouble. When we went through the complaints procedure, it was shocking. The first questions that were asked were whether I had a tape recorder and whether my friend was a reporter.

The people who were present introduced themselves only after we said that we had no tape and that my friend was not a reporter. Police interviews are taped so that nobody can be accused of anything if a complaint is made. We tape meetings in Parliament. Why do hospitals not want to do that when complaints are made? What is wrong with sticking a tape recorder on? That would protect the accused and the accuser. When everything is taped, we know what has been said. Instead, those meetings in hospitals are a closed shop.

11:15

Helen Eadie: I am a member of the Health Committee, which dealt with legislation that removed local health councils. They used to provide an advocacy service that acted on behalf of people who wanted to pursue complaints against the NHS. The Scottish Executive recognised that such complaints presented the scenario that you talk about, which could involve a conflict of interests. The minister abolished local health councils, which have been replaced by the Scottish Health Council, but it is not the advocate that you seek and it is not independent.

The minister is negotiating for Citizens Advice Scotland to be the independent advocate on behalf of the public. I know about that in detail because of a case in my constituency. My constituent was concerned that a conflict of interests existed and that nobody could act as an advocate. The issue that arises from the questions that Jackie Baillie and you have asked is whether Citizens Advice Scotland would involve medical representation and lay people.

When we write to various people about the petition, perhaps we should ask the minister whether he expects Citizens Advice Scotland to have such a balance of representation in order to ensure a balanced opinion. I know that the matter

is on-going and that the minister has not concluded negotiations, but the issue needs to be resolved urgently. I am under pressure from my constituents for a resolution and I understand clearly from what the petitioners say that a need exists.

Perhaps we could write to ask the Minister for Health and Community Care and Citizens Advice Scotland for their reactions to the issues that have been presented. In addition—if it is not inappropriate to move on to the recommendations in the briefing paper—we could invite the views of the General Medical Council, the Royal College of Surgeons of Edinburgh, the Royal College of Physicians of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow and the British Medical Association. I am not sure about contacting the Scottish Health Council because it is not expected to be an advocate. The expectation is that Citizens Advice Scotland will build up expertise, so we could write to ask how it proposes to sort out balanced representation, which has been addressed this morning.

James Kelly: I do not know whether the committee received the papers that I sent. We wrote to the General Medical Council to complain about a general practitioner holding a patient's notes for three years and one month, but it did not think that that was anything to worry about. Those notes were withheld from our initial inquiry.

Mary Milligan: The notes were withheld from the inquiry and were unavailable. They were added to my sister's records only three years after her death. Nobody questions that.

James Kelly: Nobody asks questions. The doctor requested the files on 2 November 2004 and returned them on 26 November 2004. I asked the records office whether nobody had asked questions about that.

The Convener: We agreed to write to the GMC and we can ask questions about process. That issue is worth pursuing, but we are concentrating on the general idea of an independent body.

James Kelly: We are trying to show how we—the victims—feel. It is not just us. There are many of us.

The Convener: I understand that.

John Scott: I am sorry that I missed the presentation. Are there legal proceedings on-going at the moment?

James Kelly: Yes, but the case has been sisted. The solicitor said that we could not go any further without the positive report. I got the issue raised in court and the case was sisted, or put to sleep, to give me more time to get that report, but I believe that I do not need it because if a doctor has no information on a patient, how can he give

an opinion? That is a personal thing, but it also applies in other cases. Rebecca Banks was discharged.

Helen Eadie: We might want to get an observation on that from the Law Society of Scotland. There are solicitors who specialise in medical litigation; it might be interesting to get a comment from them.

The Convener: I do not see any harm in asking.

James Kelly: They will take action only if a doctor comes forward with a positive report.

The Convener: We need to establish what the processes are and the particular views of the organisations that have been involved in any discussion of a particular case. We are trying to determine which organisations we should contact to get their views on the question that you raised this morning about an independent body. We will collate those views and that information, which will allow us to make a judgment on the possibility of achieving the aims of your petition. We are not discussing the rights and wrongs of one specific case; we are talking about who we should contact to get an overview of the potential for a solution that would be in accordance with your petition.

John Scott: Would it be sensible to contact Ayrshire and Arran NHS Board? Of course, if there is an on-going court case, it might not be able to respond.

The Convener: To do so would be difficult for that very reason. If we get responses from the bodies that Helen Eadie suggested, that will give us a perspective on whether people believe that there is potential for independent reviews of cases such as this. Are members happy to pursue those lines?

Members indicated agreement.

The Convener: We will keep Mr Kelly updated on the responses that we get and we will discuss the petition with him further.

Again, and on behalf of the committee, I extend our sympathies for the situation that has brought you to the committee this morning.

James Kelly: I appreciate the committee's time. Thank you very much.

The Convener: Mr Kelly was the last of our speakers this morning, so we can go on to our other new petitions.

National Dance Hall (PE879)

The Convener: Petition PE879 by Joyce Kinnear calls on the Scottish Parliament to support the campaign for the establishment of a national dance hall in the city of Edinburgh. Before being formally lodged, the petition was hosted on the e-

petition site where between 1 June 2005 and 2 September 2005 it gathered a total of 80 signatures.

Members will want to know that the petitioner has submitted a dossier of material with details of her campaign on the issue. The petitioner previously submitted a petition calling for the establishment of a national dance hall in Edinburgh. In response to that petition—PE742—in July 2004, the then Minister for Tourism, Culture and Sport Frank McAveety stated that the Executive currently had no plans to create a national dance hall in Edinburgh and that it was for the commercial sector to provide suitable venues if the petitioners believed that there was sufficient demand for ballroom dancing. On the basis of that response, the committee agreed to take no further action.

Although Joyce Kinnear has been assiduous in pursuing the issue and has constantly offered more information, the fundamental position has not changed; it is not the responsibility of the Executive to build or run a dance hall for ballroom dancing.

John Scott: Nonetheless, it might be interesting to write to the Convention of Scottish Local Authorities to see how successful the Executive's national physical activity strategy is, particularly with regard to elderly people. I have a deal of sympathy with Joyce Kinnear.

We lost a facility in Ayrshire—the Carrick Street Halls—that essentially provided afternoon dancing for elderly people, and which did all the things that Joyce Kinnear suggests such a national hall should do. It was a valuable facility. It would be worth knowing how the Executive's strategy is getting on and whether it is producing the successes that we all hope for.

Helen Eadie: I agree with some of what John Scott says, particularly that dancing is good for everyone's health and very enjoyable. People such as Joyce Kinnear are absolutely right to be enthusiastic about it. I think, however, that our views might diverge on the question of providing a national dance hall out of the public purse. It is more important to have local facilities in our community halls and church halls, for example. I am not sure that there is a dire shortage of those, although there might be some specific problems. It is definitely important to encourage such activity. I know that many people will not take other forms of exercise but will dance because they love to dance. We should celebrate that. However, the private sector should provide such a major national dance centre.

The Convener: I entirely agree with John Scott about promoting dancing for fitness, but that is not what the petition is about. It is about provision of a

specific facility. Having previously addressed and exhausted the issue, we established that the Executive is not responsible for building and running a national ballroom dancing facility. That is not to say that it should not encourage community groups or church groups to organise events at which people can dance for fitness. The petition is not about promoting ballroom dancing or saying that ballroom dancing is a good thing that should be encouraged; Joyce Kinnear wants a national facility to be built in Edinburgh. I do not think that we can take the petition any further because we know from its previous response that the Executive does not believe that it should be responsible for running something like that, no more than it should be responsible for running a nightclub for young people. It is for entrepreneurs to invest their money in business and the object of this petition falls into that category. Of course, we should say that dancing is a good thing for young people.

Helen Eadie: I should declare an interest here because I am a member of the Scottish Co-operative party. Joyce Kinnear could be an entrepreneur herself if she were to get together with a collective of people who share her enthusiasm for her mission; they could make a business plan to establish their own national dance hall in Edinburgh. Co-operatives are all about wearing a business hat and a community endeavour hat.

The Convener: Are there any other views?

John Scott: I would be interested to know whether the Executive's physical activity strategy is succeeding without a national dance hall. I accept Helen Eadie's and the convener's points, but I would like to be assured that the other strands of the strategy are working.

The Convener: I have no difficulty with that, as long as we decide that we cannot take the petition any further forward. We should close the petition but get a response from the Executive about the effectiveness of its strategy to encourage people to take physical activity. Are we happy with that?

Members indicated agreement.

Social Work (Scotland) Act 1968 (Community Care Services) (PE883)

The Convener: Our next petition is PE883, by Marianne Scobie on behalf of Glasgow Disability Alliance, which calls on the Scottish Parliament to revoke the powers granted to local authorities under section 87 of the Social Work (Scotland) Act 1968 to charge for community care services.

The intention of the petition is to abolish charging for all community care groups. Although the petition is submitted on behalf of Glasgow

Disability Alliance, the petitioners wish community care charging to be abolished for a range of vulnerable groups such as those fleeing domestic violence, asylum seekers, refugees, parents of disabled children, the elderly and the disabled. The petitioners are also concerned that, despite the free personal care for the elderly policy, older people are still charged for common services such as housework and shopping.

I understand from the clerk that the Health Committee is at the beginning of a post-legislative inquiry into the Regulation of Care (Scotland) Act 2001 and the Community Care and Health (Scotland) Act 2002 and that the issues that the petition raises will be pursued through the inquiry.

Do members have any views on the petition?

11:30

Helen Eadie: Should we refer the petition to the Health Committee, as it is undertaking the inquiry that you mention? The petitioner will receive a response in due course when the outcome of that inquiry is published.

The Convener: Do members agree that we should send the petition to the Health Committee?

Members indicated agreement.

**“The same as you? A review of services for people with learning disabilities”
(Findings) (PE881)**

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

**“The same as you? A review of services for people with learning disabilities”
(Implementation) (PE822)**

The Convener: Petition PE881, by Rachel Cole, calls on the Scottish Parliament to urge the Scottish Executive to review the findings of “The same as you? A review of services for people with learning disabilities” to ensure that those with profound and complex needs are properly provided for.

The petitioner has a 19-year-old son who is profoundly mentally and physically disabled and her local authority has been unable to provide what she regards as satisfactory care provision for him. She is concerned that day care centres for adults with complex needs are closed, closing or under threat of closure. Therefore, she would like the Scottish Executive to reconsider the requirements of young adults with complex needs who stay in the family home.

Members will note that petitions PE743 and PE822, which are also concerned with the review,

are on the agenda. Are members content to link consideration of the petitions?

Members indicated agreement.

The Convener: Petition PE743, in the name of Madge Clark, on behalf of the Murray Owen Carers Group, calls on the Scottish Parliament to urge the Scottish Executive to review the implementation of “The same as you? A review of services for people with learning disabilities” to ensure that adults with learning difficulties who still live at home and are cared for by elderly parents are given the same level of support and community care opportunities as hospital-discharged patients.

Petition PE822, by Beatrice Gallie, calls on the Scottish Parliament to urge the Scottish Executive to ensure that sufficient funding is made available to allow the implementation of “The same as you? A review of services for people with learning disabilities” so that all people with learning disabilities have the choice—like anyone else—of living at home with the support that they need to live independently and have control over their own lives.

At its meeting on 16 March 2005, the committee agreed to write to Highland NHS Board, the Minister for Communities and the Minister for Health and Community Care. Responses have been received and circulated to members.

Linda Fabiani has indicated an interest in PE743. I invite her to comment on it.

Linda Fabiani (Central Scotland) (SNP): I am interested in what the committee will say, as I know that it is going to discuss the Murray Owen Carers Group’s response to the responses from the Executive and the council.

I want to speak on the group’s behalf. There is still worry that no one is taking the issues on board. Time is short, as Madge Clark has said, and we must take on board the fact that many people are in the same position as the elderly carers who are represented by the Murray Owen Carers Group.

We were somewhat heartened by Jackie Baillie’s members’ business debate on carers. Rhona Brankin, who was then the Deputy Minister for Health and Community Care, said that she would meet the Murray Owen Carers Group and her offer was gratefully received.

Lewis Macdonald is now the Deputy Minister for Health and Community Care and he too has said that he will meet the group, but first he wishes to study the findings of the investigation into South Lanarkshire Council’s work in implementing “The same as you?” Findings will automatically come anyway in the review of council services. That seems to be fair enough, but I reiterate that the

issue has gone on for some time and that we still seem to be no further forward with respect to the rights of elderly carers whose children still live at home as adults and the difficulties that their doing so entails.

The core point for many people is that they want to see their children settled and happy before they are no longer able—or indeed there—to look after them. That aim seems to be getting stymied somewhat by the admirable intention that those who come out of institutions will be looked after and properly housed.

People are not saying that they should come first; they are saying that everyone should have the same opportunities and chances. I am not convinced that the answers that have been given in the case of South Lanarkshire are sufficient to ensure that everyone can have the same opportunities and chances and am interested in the committee's views.

The Convener: Do members have any views?

Jackie Baillie: I believe that a separate point needs to be teased out from PE881 when we respond to the Executive. PE881 specifically mentions day care centres and resource centres for people with complex and profound needs, and we need to pull that issue out. The petitioners are under the impression that the Scottish Executive is going around closing down such facilities, but nothing could be further from the truth. Although the Executive is reviewing what is appropriate for people's needs, day care centres are a matter for local government. However, I suggest that our letter to the Executive asks what the Executive's attitude is to that issue as well as to the issues surrounding "The same as you?"

As for petitions PE743 and PE822, the Executive's response contains some helpful comments. Especially helpful is the assurance of the Deputy Minister for Health and Community Care, who says:

"delivering better support to carers is certainly an area that I want to focus on".

The deputy minister also states that a comprehensive futures exercise has been commissioned, so there has been a modicum of movement on the part of the Executive. We should perhaps attempt to capture that, but I would hate to do so in isolation of the views of the petitioners, who have not had an opportunity to comment. Although they are in the public gallery, I know that they cannot be invited to speak at this point. Therefore, I suggest that we first send the responses to the petitioners to get their view before we decide on anything.

The Convener: We would do that anyway. Although we have linked the three petitions to

allow us to debate the general issue, the specific issues that are raised by PE881 can still be taken up separately with the Executive. I agree entirely that questions need to be asked about some of those issues. For the other two petitions, we need to consider the Executive responses that we have received and the issues that have been raised about "The same as you?" We would never close a petition or take any action on it without giving the petitioners an opportunity to respond to the points that have been made. However, as Linda Fabiani pointed out, the responses indicate that ministers are keeping an eye on the situation and want to act positively.

Linda Fabiani: We have had responses from the Executive before and the Murray Owen Carers Group has responded to those responses. I am glad that the committee will, quite rightly, not close the petitions, but I must emphasise how long the issue has been going on. The original petitioners are not getting any younger. Every day, they face the prospect that they may soon be unable to look after their children who are adults. I can think of nothing worse than knowing that a son or daughter who needs help is not settled and is not achieving everything that they can in the community.

The petitioners should not need to face the thought that, one day, they will not be there when their son or daughter comes home and crisis management will need to step in. Therefore, can the committee emphasise to the Executive the urgency of many of these cases?

The Convener: We have no difficulty at all in doing that.

John Scott: I welcome the tone of the minister's letter, which points out that, essentially, housing needs have not yet been dealt with adequately. In fairness, that issue should have been thought of before, as housing is an important issue for those concerned.

I am concerned that some local authorities' funding will be reduced, as was announced on 23 December 2004. That is to be regretted. In my area at any rate, the local authority appears not to receive adequate funding to cope with the demand for such homes that has been placed on it by "The same as you?" It might be worth taking up the offer that Rhona Brankin makes in the final paragraph of her letter:

"If you would find it useful for officials to update the Committee at a future meeting, I would be happy to arrange this."

Obviously, I will wait to hear what other members have to say on that, but I welcome the fact that we have received such a comprehensive response.

The Convener: When we get responses back from the petitioners, we could discuss the matter with Executive officials at that point. We may have

had a response to PE881 by that time, and we could discuss all the issues collectively. We could bear that in mind as a way of progressing the petition in future.

John Scott: As Linda Fabiani said, the matter has been going on for quite some time. If a meeting with officials or with the minister were sufficient to bring matters to a head and to find resolutions, that would obviously be of benefit to the petitioners and to the committee.

Helen Eadie: I agree wholeheartedly with colleagues on the committee. This is a matter of real concern for all our constituents. I was particularly interested in the minister's letter, which says that a team has been established and that the project is being managed by the Executive's care 21 change and innovation team, which is looking at models of support for carers in other countries. They are trying to establish whether there is best practice that we could examine and perhaps import into our own country.

We can learn lessons from people who have similar experiences in places such as the Scandinavian countries, whose geography is similar to that of Scotland. It is especially good to hear that, and I agree very much with what John Scott and the convener have said about getting Executive officials along to a future meeting, but Jackie Baillie is right to say that we also need to hear the views of all the petitioners on the issues that have been raised this morning.

The Convener: We shall start to make plans to have the Executive witnesses here, and we shall do that in accordance with the timing of responses from the petitioners, so that we can have a discussion based on the information that they give us on the responses that we have already received from officials. Then, we can take up specific issues when we get the opportunity to speak to those officials. Are members happy to do that?

Members indicated agreement.

The Convener: That was the last of our new petitions.

Current Petitions

National Heritage Committee (Cramond) (PE801)

11:42

The Convener: We move now to consideration of current petitions. As we have linked the first two of these petitions to a previous petition, we shall now consider PE801, by Ronald H Guild, calling on the Scottish Parliament to urge the Scottish Executive to establish a permanent national heritage committee and to ensure the protection of the whole Cramond area's environment, including islands, and the proper investigation and preservation of the natural, manmade and cultural elements of the site, together with the establishment of an appropriate museum.

At its meeting on 20 April 2005, the Public Petitions Committee agreed to write to the petitioner. A response has now been received from Mr Guild and circulated to members for discussion. Do members have a view on it?

John Scott: On the basis of the responses received from Historic Scotland, Scottish Natural Heritage and the City of Edinburgh Council, I think that we should probably close the petition. It seems to me that they are dealing adequately with the situation.

The Convener: Do other members agree that that is the case?

Jackie Baillie: Mr Guild has pursued the issue vigorously through the Parliament, and through the Parliament's Education Committee, previously. I have to say, with regret, that I do not know where we can go with the petition, given the responses from Historic Scotland, SNH and the City of Edinburgh Council, so I support John Scott's recommendation.

The Convener: Is it agreed that we close the petition?

Members indicated agreement.

Food Supplements (European Directive) (PE738)

Food Supplements (Scotland) Regulations 2003 (PE828)

The Convener: The next petitions are PE738 and PE828. PE738, by Joanna Blythman, calls on the Scottish Parliament to urge the Scottish Executive to ensure that the voice of consumers of vitamin and mineral supplements is heard as the European Commission prepares to set maximum permitted levels as part of the food supplements

directive, and to consider all options, including a derogation, that would allow Scots consumers access to the vitamin and mineral potencies currently available.

PE828, by Fraser McNaught, calls on the Scottish Parliament to urge the Scottish Executive to ensure that the implementation of the Food Supplements (Scotland) Regulations 2003 will not prevent consumers from accessing health supplements and herbal remedies beneficial to their health.

At its meeting on 27 April 2005, the committee linked PE828 with PE738, and sought an update from the Executive on the food supplements directive. A response from the Executive has now been received and circulated to members. The European Court of Justice published its judgment on 12 July 2005, which accepts the validity of the directive. Do members have a view?

11:45

John Scott: Given the European Court of Justice decision, which accepts the validity of the directive, there is not much more to do. We should close the petitions. The court's decision is pretty much the final word.

The Convener: Do members agree?

Members *indicated agreement.*

John Scott: I have every sympathy with the petitioners, but we have gone to the highest court available and it has made its decision.

Planning Applications (Third-party Right of Appeal) (PE809)

The Convener: Our next petition is PE809, by Angela and William Flanagan, which calls for the Scottish Parliament to legislate to provide third parties with a right of appeal regarding planning applications.

At its meeting on 23 February 2005 the committee agreed to write to the Executive and to seek an indication whether any changes to the right of appeal will be included in the planning white paper, which is to be published in spring 2005. A response has been received and members have had a chance to read it. Do members have views on the petition?

Jackie Baillie: The petition is very live. The Communities Committee will deal with the forthcoming planning bill in due course, so I suggest that we refer the petition to it to consider as part of its scrutiny of the planning bill.

The Convener: Are members happy to do that?

Members *indicated agreement.*

Egg Stamping Legislation (PE733)

The Convener: The next current petition is PE733, by Peter Siddons, which calls for the Scottish Parliament to urge the Scottish Executive to provide guidance to egg producers in Scotland on relevant legislation relating to egg stamping and whether it is compatible with the provision of the EU Council Decision 94/371/EC.

At its meeting on 20 April 2005, the committee considered responses from the Scottish Egg Producers Retail Association, the National Farmers Union, the British Egg Industry Council, the British Free Range Egg Producers Association and the University of Dundee and agreed to invite the views of the petitioner on those responses. A response has been received from the petitioner and circulated to members. Do members have any views on what to do with the petition?

John Scott: Again, on the basis of the responses that we have received from all the people to whom we wrote, I do not think there is any point in taking the petition further.

All the respondents seem to be in favour of stamping eggs with the ink, as discussed by the Scottish Egg Producers Retail Association, the NFU, the British Egg Industry Council and the British Free Range Egg Producers Association.

The Convener: Do members agree?

Members *indicated agreement.*

G8 Summit (Peaceful Protest) (PE871)

G8 Summit (World Poverty) (PE874)

The Convener: The next petition is PE871 by Rosemarie McIlwhan on behalf of the Scottish Human Rights Centre and G8 Alternatives group and calls on the Scottish Parliament to express its support for peaceful protest during the forthcoming G8 summit, including at Gleneagles itself.

PE874 by Shauna McIntyre calls on the Scottish Parliament to urge the First Minister to follow the advice of Sir Bob Geldof and lobby the G8 heads of state on the issue of global poverty.

At its meeting on 28 June 2005, the committee agreed to link PE871 and PE874 and to write to the First Minister inviting his comments on both petitions. Unfortunately, no response has been received from the First Minister. Do members have any views on how to deal with the petitions?

I have contacted the First Minister's office to find out why we have not received a response from him, given that he was keen to engage with us initially. I am not getting anywhere now, whereas I was quite hopeful at the start. It could be that there is not the same urgency. The situation that developed in the Parliament around that time

means that matters are different from what they were when we discussed the petitions initially. I still think it is appropriate to get some response from the First Minister.

Jackie Baillie: The purpose of the petition was in part to highlight the issue; it is a question of timing rather than anything else. The petitioners should take comfort from what happened subsequently and could perhaps even claim some credit for it. Whether we require a letter from the First Minister to close the petitions formally is a matter for your judgement, but I am clear that there was support for the petitions from the First Minister's office at the time.

Helen Eadie: I agree.

The Convener: It depends whether we want to pursue the matter further. The First Minister has made public statements in response to the petitions and there have been discussions in the chamber on the matter. The issue is whether we want to express our disappointment that we did not receive a response. There is nothing more that we can do with the petition.

Helen Eadie: The issue was responded to in the Scottish Parliament debating chamber. It would be appropriate to send copies of the *Official Report* of those parts of the debate to the petitioners. I recall that the issue came up in the context of First Minister's question time. The First Minister made it abundantly clear to everyone that he supported the events. As Jackie Baillie rightly points out, events afterwards indicated that there was strong support for them throughout Scotland. I was one of the people who queued for ever in the park. I was with all my church groups, local Labour party groups and so on. We queued for more than six hours and still could not get on the march, but we had a nice gala day in the park and enjoyed ourselves because we were there to support the event. Most MSPs were there.

John Scott: I do not disagree with my colleagues on the First Minister's response. He was rightly enthusiastic about it all. However, there is a point of principle. A failure to respond, no matter how briefly, would set a bad precedent for other ministers, who might not respond if they feel that they have already said enough about a matter in Parliament. We should seek a response for reasons of tidiness and the functionality of the committee. The points that Jackie Baillie and Helen Eadie have eloquently expressed about the First Minister's view could be encompassed in a letter from his office. That would round off the process. If the committee is strong on anything it is strong on process.

The Convener: I agree. We will not learn anything from a response from the First Minister,

but it is appropriate that we receive one. We should pursue that.

Members indicated agreement.

Education Maintenance Allowance Payments (PE815)

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

At its meeting on 2 March 2005, the committee agreed to seek the views of the Scottish Executive and in particular details of the transitional arrangements between the bursary and the education maintenance allowance. The committee has now received the Executive's response. What do members think? Does the response answer the question that was asked? Is there anything further to pursue?

Helen Eadie: I agree: there is nothing further to be gained. We have received the response.

The Convener: Okay. We will close the petition.

Members indicated agreement.

HMP Peterhead (PE675)

The Convener: The final current petition is PE675, which calls on the Scottish Parliament to investigate the suitability of HMP Peterhead for the long-term imprisonment of convicted sex offenders.

At its meeting on 20 April 2005, the committee agreed to write again to the Scottish Prison Service specifically to seek an update on the end of slopping out at Peterhead. A response has been received. Members are invited to comment.

Jackie Baillie: An SPS consultation is on-going and the Minister for Justice has indicated that following that she will report on the future of HMP Peterhead. There is therefore no further point in keeping the petition open, so I recommend that we close it.

The Convener: Are members agreed?

Members indicated agreement.

The Convener: That was our last petition. That concludes our business.

Meeting closed at 11:54.

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