

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 22 February 2006

Session 2

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## PUBLIC PETITIONS COMMITTEE

4<sup>th</sup> Meeting 2006, 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)

\*Mr Charlie Gordon (Glasgow Cathcart) (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 :

Margaret Duncan

Stella Macdonald

Colin Macfarlane (Midlothian Chamber of Commerce and  
Enterprise)

Lucy Johnson McDowall

Margot Russell (Dalkeith and Danderhall Labour Party)

Ann Stewart-Kricha (Dalkeith and District Community  
Council)

### CLERK TO THE COMMITTEE

Jim Johnston

### ASSISTANT CLERK

Richard Hough

### LOCATION

Committee Room 1



# Scottish Parliament

## Public Petitions Committee

*Wednesday 22 February 2006*

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

### New Petitions

#### Scottish Public Services Ombudsman Act 2002 (PE930)

**The Convener (Michael McMahon):** Good morning everyone, and welcome to the fourth meeting of the Public Petitions Committee in 2006, in the second session of the Scottish Parliament.

Agenda item 1 is new petitions, the first of which is PE930 by Lucy Johnson McDowall. The petition calls on the Scottish Parliament to urge the Scottish Executive to amend the Scottish Public Services Ombudsman Act 2002 to bring all aspects of local authority administration under the remit of the Scottish Public Services Ombudsman, without exception or exemption. The petition calls for the ethics and professionalism of local authority officials to be included in the remit of the ombudsman or the Standards Commission for Scotland.

Lucy Johnson McDowall will make a brief statement to the committee, after which we will discuss the issues that she raises.

**Lucy Johnson McDowall:** I thank the committee very much for its time and attention this morning. I am afraid that the petition does not sound exciting; it sounds very dry. I am asking the Parliament to maintain our democracy in the way that a plumber would maintain a building's plumbing or an electrician would maintain a building's electrics. Democracy is not fixed; it needs constant maintenance and checking.

At local level, democracy is not working well for ordinary people in that decision making happens from the top down and there does not seem to be an awful lot of accountability in respect of matters that are exempt under the Scottish Public Services Ombudsman Act 2002. Members of the public—citizens and electors—have great trouble raising their concerns about professionalism, corporate governance, ethics and conduct, which are political soft skills, if you like. Members of the public are being ridden over by people who use obstructive management practices, which costs the taxpayer an awful lot of money. When corporate officials do not behave ethically, and when standards are not maintained by the people whom we pay to manage our finances and provide

our services, it leads to a huge waste of money. Money is wasted through litigation, administration, absence from work and the health problems that are suffered by local authority workers. That can have devastating implications for our communities because local authorities are the largest employers in much of Scotland.

When we approach our local authorities, we expect minimum standards and we expect their policies to be adhered to. When I approached my local authority on behalf of a non-unionised worker, we came up against huge amounts of obstruction. Illegal threats were issued, confidentiality was not adhered to and there was a lack of professionalism and ethics. When we tried to raise those issues at corporate level, we were met with an attitude that amounted to, "We're a public body and you can't tell us what to do." When I approached the ombudsman, we were told that there was nothing the ombudsman could do because we had only personnel matters on the table, which are exempt under the Scottish Public Services Ombudsman Act 2002. When I contacted the Standards Commission for Scotland we were told that it could not help us; the matter does come within its remit because the commission deals only with councillors and elected members.

When democracy does not work at local level, it does not work at all. Corporate officials have more power over ordinary people's lives than Government ministers have. It is easier to get rid of an incompetent Government minister than it is to remove or discipline an unprofessional or incompetent corporate manager.

At the lowest levels, local authority workers have to adhere to standards or they will be disciplined or removed from their jobs. Try to apply the same idea at corporate level and you find that people have very secure jobs and that there is no way of disciplining them. That should not be the case in a democracy: no one should be able to draw a salary from the public purse without their being answerable to somebody, no matter what the issue is. The exemptions under the Scottish Public Services Ombudsman Act 2002 mean, in effect, that in certain areas our corporate officials are unaccountable. That is a constitutional issue.

The subject might sound dry and a bit boring and pointless, but when we add up the costs of lack of professionalism, poor corporate governance and poor ethics it runs, I believe, into millions of pounds. I therefore ask the committee to consider amendments to the 2002 act to remove the exemptions and to bring all corporate and political accountability under one roof. That would save money and help to bring about a functioning democracy at the most local level.

On a personal note, I was told by a corporate manager that I could not tell him what to do or

question his actions in any way, because he was a corporate manager of a public body. That is exactly why I am here. I do not believe that what he said is true or correct under our Scottish constitution or under our political system. Thank you.

**The Convener:** Thank you—it is certainly not a pointless petition. I hope that I can disabuse you of that idea; the petition would not be in front of us if it was pointless. It is not the most boring one I have heard either.

I open up the meeting to allow committee members to ask questions or raise points.

**John Scott (Ayr) (Con):** Good morning and thank you for your interesting remarks.

Your papers state that the national bullying helpline

“estimates the cost of workplace bullying in the UK to be around £3.7 billion a year”.

If that figure is correct and we were to assume—as we normally do—that the cost to Scotland is 10 per cent of the United Kingdom cost, the cost to Scottish local authorities of such bullying is £370 million. Will you say a bit more about that?

**Lucy Johnson McDowall:** There is a lack of statistics, action on and monitoring of the costs of poor personnel practice and there is a lack of information and action on the poor monitoring of personnel policies in particular. The background costs include costs to the health service as a result of the prescription of anti-depressants, which amounts to the equivalent of 50 daily doses of anti-depressants per adult in Mr Scott's constituency. A huge number of medical prescriptions are required. If we bear it in mind that only a few hundred thousand people live in Ayrshire, we will realise that there are substantial costs to the health service.

As well as the costs of occupational referral, there are costs to employees' families. I am talking about the most appalling blight on our society: council employees in the Ayrshire local authorities, for example, are on average off sick one day a month. Such a sickness level would be considered appalling by a private corporation, but the Ayrshire local authorities do not seem to think that there is anything wrong with it. I disagree with them. Many occupational health care workers to whom I have spoken think that the levels of poor mental health in the west of Scotland are endemic and that they cost us billions of pounds. Those levels are a blight on our communities.

Things other than financial costs are involved if we want to create a healthy and happy Scotland—we should also consider our creativity, whether our businesses function properly and whether the nation is productive. Those things combine.

Absolutely phenomenal financial and emotional costs for the nation are involved. Our local authorities are among our largest employers, so we cannot ignore the problem any longer.

**John Scott:** You have suggested that we may wish to consider the cost benefits of

“amalgamating the Standards Commission, Audit Scotland, and the Public Service Ombudsman into a single independent centre for audit, public accountability and ethical standards”.

Do you have experience from elsewhere in the world of three equivalent roles being rolled into one?

**Lucy Johnson McDowall:** When I worked in south-east Asia, we considered the matter from a corporate angle. Exciting things are happening in Malaysia and India, where people are realising that ethics and accountability cannot be separated from a functioning democracy, and that those things go hand in hand.

Basically, my proposal makes good financial sense. If there are three accounting bodies with separate remits and overlapping responsibilities, there will be three corporate directors, three deputy directors and there will be other repeated roles. To bring the organisations under one umbrella would make good financial sense. All of them consider how our public officials and elected members conduct their decision making with our money and all of them are responsible for protecting our democracy, so to bring everything under one roof, pay one director and one secretary and keep the overheads down simply makes sense.

Such bodies are proliferating and people are passed from pillar to post when they approach them to find out to whom they should speak. It is difficult for citizens to raise issues because no one is quite sure under whose remit various things fall. I have encountered that problem—I think that I must have spoken to everybody I could possibly have spoken to.

10:15

**Jackie Baillie (Dumbarton) (Lab):** I want to clarify the thinking behind your petition. Am I right in thinking that it is about the conduct not of councillors but of local authority officers?

**Lucy Johnson McDowall:** Yes. It is fairly easy to deal with a councillor who is putting his hand in the till, metaphorically speaking—

**Jackie Baillie:** I am sure that not many of them would do that.

**Lucy Johnson McDowall:** I am quite sure of that, but in a case of financial misconduct or corruption involving an elected member, the

Standards Commission would examine how that member had conducted their business. One can phone the commission and ask it to investigate such matters. That cannot be done in relation to poor financial or policy decision making or in relation to the non-implementation of policy by paid officials. Councillors do not get paid, but corporate officials draw huge salaries and with that financial reward comes great responsibility. The level of accountability of those people should be extremely high: it should be possible to investigate them and to call their conduct into question, but we have no mechanisms through which to do that. I propose that some kind of standards or ethics audit be done along with financial auditing.

**Jackie Baillie:** I understand why you are making your proposal. Are you aware that local authorities have codes that should set out minimum standards of conduct for their employees and—

**Lucy Johnson McDowall:** Yes—those are excellent policies.

**Jackie Baillie:** Are you aware that officers are appointed to monitor those codes and that reports are made to a committee of the council if they are breached?

**Lucy Johnson McDowall:** Yes. I have read local authorities' policies extensively. However, a policy is only as good as its implementation and there is no way of checking whether that implementation is happening. Brazil's rights of the child legislation and the Columbian constitution are among the most enlightened legislation in the world and might lead one to assume that those countries have excellent human rights records, although they do not. Similarly, at local level, a policy that is wonderful on paper, but which is not implemented, for which implementation is not being checked or which is not being monitored, might as well not exist. That is the experience of many people who approach local authorities with problems. The policies are wonderful but there is no implementation and there is no independent body that can force local authorities to adhere to their policies. That is quite serious.

I have lost count of the number of times I have heard local authority officials say that they take bullying, racism, disability discrimination, equal pay and so on seriously. However, you have to ask how they take it seriously because they need to show that they are doing that. There must be an independent body that can scrutinise what they are doing.

**Jackie Baillie:** Why is accountability of local government officials not best addressed at local level by elected members, whom you accept are accountable?

**Lucy Johnson McDowall:** That is because among local councillors there is not generally a large or global understanding of democracy. Many councillors to whom I have spoken do not feel able to ask questions of officials about their conduct or about personnel and financial decision making. At that level, an internal political system is not the best way of ensuring that standards are maintained. As you are aware, local authorities tend to be mini political fiefdoms.

An independent standards body that is not embroiled or embedded in local politics—in what is going on in the local Conservative and Labour clubs or in local political wrangling—will ensure that the issues are heard. The people of Scotland want accountability to work seamlessly across the board and they want to take it to higher levels. Obviously, one's first port of call is one's councillor or the monitoring officer—but what if they do not listen or do not feel able to deal with the matter? There should be a higher level that people can go to. Ultimately, democracy is supposed to be protected by the people whom we elect to do the job and there should be direct lines of accountability to the Scottish Executive and the Scottish Parliament.

**Jackie Baillie:** I understand that you have raised the matter ancillary to an employment issue that you raised originally with whichever local authority was involved. You realise, of course, that you have recourse to an industrial tribunal. I wonder whether you availed yourself of that.

**Lucy Johnson McDowall:** Industrial tribunals are a form of litigation, but litigation is not a good forum for maintaining our democracy. As I said, I am here because I believe—

**Jackie Baillie:** Did you seek to use an industrial tribunal to resolve the particular issue that you raised?

**Lucy Johnson McDowall:** Our local authorities should look to tackle the root causes of industrial tribunals and litigation. What happens with litigation or with industrial tribunals that are held following a grievance procedure? When complaints are upheld, they benefit only the complainants. There is no feedback into the system to monitor, evaluate or change what goes on. Salaries and payouts do not come from a company's money; rather, they are funded by the taxpayer and the public purse, so there is little sense of personal responsibility. Industrial tribunals can uphold the complaint and pay out money or not, but the root cause of the tribunal might never be dealt with.

I asked freedom of information officers from a few local authorities how many industrial tribunals are held each year and how many of those are based on psychiatric injury and poor personnel

handling, but they could not answer because they do not monitor those things. That is worrying because it means that there are no internal checks and balances. In other words, there is nothing to ensure that grievance procedures are fair and free. It is all very well to have a grievance procedure, but one could argue that if it is not monitored to ensure that it is just, fair and impartial there is not much point in having it.

**Rosie Kane (Glasgow) (SSP):** I am sorry that I was a wee bit late and I missed the beginning of what you said. I hope that I do not go over anything that you have already covered. I agree with the convener—your petition is neither dry nor boring. It is extremely informative and important because it is about transparency, accountability and democracy. From what you have said, it seems that we are a long way from being on a level playing field. What is the position of Unison and the Scottish Trades Union Congress on what you are asking for?

**Lucy Johnson McDowall:** I spoke to several unions during my investigations. I hate to use the phrase, but unions are private interest groups. They serve an important function in conflict resolution at a basic level, but one should not have to be a member of a union to get justice from one's employer—people should not have to join a union for protection because democratic methods and accountability should already be in place. The onus is on our elected members to ensure that direct lines of accountability are in place.

Unions certainly serve an important function. Everyone has the right to bring industrial action or to approach their employer through a union, but I am talking about something on a global level. The lines of accountability simply do not exist in terms of personnel. There is no way of taking matters to the wire without going through litigation.

My argument is that litigation is not an appropriate way of maintaining democracy because it is expensive and it favours financially better-off people over ordinary citizens who do not have much money. Lawyers often do not take on cases unless there is money in it for them, so if a person does not have insurance or does not qualify for legal aid, they cannot get justice. The unions consider issues from the perspective of the way in which they have always done things, without looking at the more global constitutional and political issues. It should not be up to private interest groups such as unions or lobbying groups to maintain our democracy; that is what we pay our elected members to do and it is why we vote for them.

In the absence of a written Scottish constitution, when legislation such as the 2002 act is drafted, there should be a clear understanding of its democratic implications. The fact that, under

certain circumstances, council officials who draw salaries are not accountable for decision making is a constitutional issue. It is irrelevant that we are talking about a personnel matter, although such matters have such a devastating impact when things go wrong. Officials should not draw salaries and make financial decisions about public money without their being answerable in some way to the people of Scotland.

The accountability process must be independent of the microcosm of local party-political wrangling that goes on in local authorities. The only way to achieve that is to use the bodies that already exist to investigate maladministration and poor ethics, such as Audit Scotland, the Standards Commission for Scotland and the Scottish public services ombudsman. We have structures in place for that, but we must ensure that the legislation on what those bodies do is consistent.

**Mr Charlie Gordon (Glasgow Cathcart) (Lab):** As I understand it, the catalyst for the petition was council officials' decisions that you felt were inappropriate. Did the council officials who took those decisions do so under delegated powers that pertained to a scheme of delegation in the local authority?

**Lucy Johnson McDowall:** The council officials with whom I have dealt and spoken have taken decisions unilaterally. They did not understand or know their policies and contravened them. That happened basically because they thought that they could not be held accountable.

**Mr Gordon:** I am asking specifically whether the council that you are concerned about has a scheme of delegation that is in the public domain and that lays out what decisions can be taken by individual officials rather than by the whole council.

**Lucy Johnson McDowall:** The council has clear policies that have been written down, but my concern is that they were not adhered to.

**Mr Gordon:** I am not talking about policies; I am talking about the delegation of decision making. Are you aware of whether the council has such a scheme?

**Lucy Johnson McDowall:** I am not. I have tried to figure out who has the power to make decisions, but I have encountered many breaches of council policy, which makes it difficult for an ordinary citizen like me to ascertain that.

**Mr Gordon:** So you are not aware of whether the council has a scheme of delegation.

**Lucy Johnson McDowall:** No.

**Mr Gordon:** So therefore you are not aware of whether the council officials with whose decisions you disagreed had the power to take those decisions.



**Lucy Johnson McDowall:** The council officials with whom I have a problem are the chief executive and the corporate directors. One assumes that officials at that level have the power to take such decisions, but one would also assume that they have a corporate responsibility to uphold the terms of their contracts and council policies.

**Mr Gordon:** I am aware of that, but I asked a specific question. I am trying to draw on my 18 years of experience as a councillor in local government to help me identify the mechanics behind your concern.

10:30

**Lucy Johnson McDowall:** To be honest, it is not easy for ordinary citizens to ascertain what the mechanics are. That is not for the want of trying, but because local authorities and council officials do not send out a coherent message about the decisions that officials are allowed to make. In my experience, local authorities have contravened the law of the land, with no—

**Mr Gordon:** We have established that you are not aware whether the council that you are talking about has a scheme of delegation.

**Lucy Johnson McDowall:** I am not aware of a scheme of delegation.

**Mr Gordon:** Therefore we do not know whether the decisions that you disagree with were properly delegated to the people who made them.

**Lucy Johnson McDowall:** I know that such matters are supposed to go to the monitoring officer.

**Mr Gordon:** I was going to ask about that. Does the council that you are talking about have a code of conduct for its staff?

**Lucy Johnson McDowall:** Yes.

**Mr Gordon:** Did you complain about apparent breaches of the code of conduct to the council's monitoring office—

**Lucy Johnson McDowall:** I certainly did.

**Mr Gordon:** I presume that you received no satisfaction from the monitoring office.

**Lucy Johnson McDowall:** We did not receive a reply. Section 13 of the local authority's code of conduct states that if someone is asked to do something that is, or that they suspect might be, illegal or unethical, they must raise it in confidence with the chief executive, who should then deal with the matter in confidence through the monitoring officer. That did not happen in the case that we are discussing. The chief executive and directors in question appeared to be unaware of the content of the local government code of conduct. Given

how they responded to and dealt with our concerns, the policy must be stuffed in a drawer somewhere, because it was completely ignored. That happened at chief executive level and the complaint was not passed to the monitoring officer. We received a reply from customer services staff and the ethical question that we had raised was passed back to the department with which we had legal problems. As a result, threats were made against my client.

**Mr Gordon:** As you know, the monitoring—

**The Convener:** I will stop you, because we are getting into the specifics of the petitioner's case.

**Mr Gordon:** I just want to be clear about this: did the petitioner complain to the monitoring officer?

**Lucy Johnson McDowall:** We complained to the chief executive, as per the code of conduct, and repeated our complaint on several occasions. The chief executive completely ignored the complaint and did not adhere to the council's policies. Our experience demonstrates the extent to which corporate managers, not just in our local authority but in other authorities, believe that they can flout the law of the land and their authorities' policies without having their conduct called into question. There is no way of calling their conduct into question. I telephoned the office of the Scottish public services ombudsman about the issue, but I was told, "We cannot help you." I telephoned the Standards Commission for Scotland and was told, "We cannot help you." I contacted my local councillor, who said, "I cannot help you", and when I took the matter to the Scottish Executive I was batted back to the local authority.

**The Convener:** We must be careful that we do not start discussing the specific case—

**Mr Gordon:** May I ask one more question? I am trying to keep my questions—

**The Convener:** I know, but a couple of statements have been made and questions have been asked about the specifics of a case. We are straying into dangerous territory. Allegations that a council official committed an illegal act are not a matter for the Scottish public services ombudsman or for the Standards Commission for Scotland; they are a matter for the police. We must be careful about the language that we use when we talk about the issue. We must talk in general terms about the petition that was lodged, which is about governance in local government. We should not consider the action that a specific council officer might have taken.

**Lucy Johnson McDowall:** We suspected that my client was being asked to do something that was certainly unethical, and possibly illegal. We

consistently raised that issue, but we received no response. I understand the convener's concerns, but—

**The Convener:** We have to consider the general issue of administration, not a specific allegation against an individual. I have to counsel you on that.

**Lucy Johnson McDowall:** I agree with you on that.

**Mr Gordon:** Some, but not all, councils have sub-committees that deal with personnel appeals. Such committees are made up of councillors acting in a quasi-judicial capacity as individuals with no party whip. In fact, it would be unethical for them to behave in a partisan way, as it would be with a planning application or a licensing application. Did that apply in your situation? Is there a committee of councillors who could have considered the matter as a personnel appeal? I ask you to reply without going into the specifics of the case.

**Lucy Johnson McDowall:** We did not take the case to the committee because of the lack of monitoring and our lack of confidence that the case would be heard fairly within the local authority. Such a committee exists and should exist but, in spite of that, there should be direct accountability to independent auditing bodies, because the case involves public money. There should always be stages of accountability.

Our concern was with the whole political system and the lack of confidence that was felt by the councillors to whom I spoke. They felt that they could not bring the matter up and that they could not comment on personnel matters at all. I do not think that that is the case, but whether it is the case or not does not matter, because councillors do not think that they can raise such issues and they do not feel confident in doing so. That means that they lack knowledge, or that the point has not been clarified for them. We tried to go through the independent auditing channels for independent scrutiny of the ethics and conduct of council officials, and not only those in our local authority. We feel that the issues are global and that people face the same problem Scotland-wide. It is a constitutional issue.

It is all very well to have a union, councillors or some other mechanism as a first line of scrutiny or accountability, but the fact remains that there should be independent lines of accountability to our elected members in Parliament and to the Scottish Executive if those mechanisms fail or if, for some reason, there is insufficient monitoring or independence or there is internal wrangling. For example, we could not avail ourselves of a union, so where were we to go for a first line of conflict resolution? It might not be possible for somebody

to avail themselves of a committee such as you describe, or they might not be happy with what that committee says, so there should be an opportunity to take the matter further if they feel that it is necessary.

I assume that that is what organisations such as the Standards Commission for Scotland, Audit Scotland and the Scottish public services ombudsman exist to do. They are supposed to be one step up from the local level, in case the system breaks down at that level. When it comes to personnel matters or the exemptions from the Scottish Public Services Ombudsman Act 2002, the lines of accountability do not exist, and corporate managers have little responsibility to ensure that they do exist. Basically, it is a constitutional issue.

**Helen Eadie (Dunfermline East) (Lab):** I ask you to challenge the view that I will express. Your argument is fundamentally flawed, because every local authority in Scotland has a personnel chair, a personnel sub-committee and an appeals procedure that every employee is able to use. The appeals procedure ends up not with the head of the service, but with the personnel team, which comprises the chair that I mentioned and a sub-committee of independent councillors. Come back at me if you like, but that is where I see the fundamental flaw in your argument. You appear not to have taken that route, but I argue that it is a reasonable one that people in local government should take.

**Lucy Johnson McDowall:** If that is the case, why have a public services ombudsman at all?

**Helen Eadie:** According to the briefing notes we received, although the Scottish public services ombudsman cannot arbitrate in specific personnel cases, if there has been maladministration an employee has the right to challenge it. It is down to the procedure. That is how the Scottish public services ombudsman deals with issues. He always checks that procedures have been carried out. He never makes a judgment on the substance of an issue.

**Lucy Johnson McDowall:** We approached the public services ombudsman not on the substance of our dispute with the local authority, but because the local authority in question had not implemented crucial council policies.

Policies exist on paper. I refer in particular to the respect at work policy. However, there has been no training or monitoring of sickness absence or attrition. There is no evidence to suggest that policies are being implemented. Personnel departments and personnel committees are meant to implement, monitor, evaluate and benchmark policies. Suffering because of the maladministration of a personnel department, and

then having to take it to an industrial tribunal, is like someone punching someone else in the face and then being the magistrate who tries and makes the judgment in the subsequent court case. We have a classic case of who will guard the guards.

One can argue that local authorities' personnel committees, internal structures and procedures should be dealt with internally in local authorities, but the truth is that unless those people understand and adhere to their policies, and are accountable to an independent auditor, there is no onus on them to keep those procedures free, fair or unbiased.

Generally speaking, judgments are made in favour of the employer, not the employee. One then has to go down the route of industrial tribunal or litigation. When I asked my local authority how many complaints had been upheld by the personnel committee, it could not tell me, because it had not monitored that or counted the figures. I got the information from corporate human resources through a freedom of information request. There is no evidence that the authority is ensuring that the committee's procedures are free and fair, because it does not have to answer to anyone.

**Helen Eadie:** In light of what has been said, we should write to Audit Scotland, the Convention of Scottish Local Authorities, the Scottish Executive and the Scottish public services ombudsman for their views.

I, like Charlie Gordon, had a number of years of service on a local authority—I think it was 13 years in total—and I served on an appeals committee, and I know that many employees' cases were upheld. Councils are under incredible pressure to monitor, for example, sickness absences, and they have bullying policies. They get feedback and they do exit audits to ascertain why staff leave council employment. If the reason concerns bullying or harassment, it is noted and fed back to the democratically elected councillors. I have sympathy with what you have said, but I am not entirely convinced by your argument.

**Lucy Johnson McDowall:** I am sure that what you say is the case, and that most councillors are extremely dedicated and concerned. As I have already said, they do not get paid for the work they do. I imagine that many councillors are passionate about their work.

**Helen Eadie:** We got paid for the work we did in councils. [*Laughter.*] Charlie Gordon might not think it was enough, but we did get paid.

10:45

**Lucy Johnson McDowall:** However, the situation relies on the dedication of elected members; it has nothing to do with independent lines of accountability. We have to rely on the good will, dedication and integrity of councillors. My argument is that even if councillors have that integrity or passion for justice, it does not change the fact that there is a structural flaw in the system and that the issues that we raise are structural. There is no direct line of accountability so, in certain circumstances, a corporate manager can make a decision using public money, draw a salary from the public purse and not be accountable for that decision.

**The Convener:** That is the gist of your petition.

**Lucy Johnson McDowall:** Yes.

**The Convener:** You have given quite a lot of information, which I appreciate. Members have had a good opportunity to question you on the petition. Helen Eadie has made some suggestions about how to proceed. We could write to the Scottish public services ombudsman, COSLA, Audit Scotland and the Scottish Executive. Do members have any other suggestions?

**Jackie Baillie:** Unison and the GMB would have an interesting take on the petition.

**The Convener:** We will ask those organisations, then collate the information that comes back to us and let you know what the responses were. We will discuss the petition further when we receive those responses. Thank you for bringing your petition to us this morning.

### Supporting People Funding (PE932)

**The Convener:** Our next petition is PE932 by Stella Macdonald, on behalf of the Citizen's Rights Action Group. The petition calls on the Scottish Parliament to urge the Scottish Executive to review the supporting people funding arrangements to ensure that vulnerable adults are in receipt of the responsive services that are required to keep them healthy.

The petitioners have provided the committee with copies of a DVD and an accompanying booklet entitled "Lives Behind Labels"—those have been circulated to members of the committee. Stella Macdonald is here to make a brief statement to the committee in support of her petition. She is accompanied by Margaret Duncan. Welcome to the committee. You have a few minutes to introduce the subject and then we will discuss it further with you.

**Stella Macdonald:** Thank you.

CRAG's core membership is made up of service users and carers. The organisation has the remit

of raising concerns about the impact on the ability of citizens to lead fulfilling and progressive quality lives as citizens of Fife, whether they are adults or children, of policies and decisions that are outwith their control.

I am a carer. I have a 20-year-old daughter who has Asperger's syndrome. I am in a voluntary role, so I am not paid and I do not know all the information; there might be some questions that I cannot answer, but I can only try my best. I obviously have interests in the issue.

We believe that the Scottish Executive has the best interests of Scotland's population at the heart of all that it does and that it would not intentionally go out of its way to put members of our communities at risk. However, there is no doubt that certain modifications, such as the introduction of a formula that has been developed to assist in the fair dispersal of funding, could unwittingly disadvantage an area that is renowned for its high level of deprivation. In this case, we believe that it would be wise to revisit the formula to reassess its accuracy in identifying and reflecting the true level of deprivation, especially if it is to be reused.

Concerns have been raised among CRAG members because we have learned that the Arbuthnott formula, in connection with supporting people funding, is one such example: a fair and honest review of the formula might open discussion on its ability to identify and reflect the true level of deprivation across Scotland. We have also been led to believe that the reallocation was based on statistics that relate to disability, deprivation, homelessness and older people, rather than to individuals who are already supported by the supporting people programme in those areas.

Fife, which I represent, is just one region that has experienced a reduction in supporting people funding as a result of the formula, although we have been led to believe that Fife has been recognised as having data zones with the highest rate of deprivation outside Glasgow. In the paper that I circulated to members, I provided details of the number of frail older people and so on in the area. The figures do not include other vulnerable people who are supported by supporting people funding, such as people with mental illness, victims of domestic abuse, people who are homeless, those who are not in receipt of disability living allowance but have a disability and those with autistic spectrum disorder, whose true needs are only now being recognised.

In Fife, CRAG members have witnessed the supporting people team work tirelessly to identify and address the needs of those who could specifically benefit from focused supporting people funding. The team, whose exemplary commitment and tenacity are worthy of recognition and praise,

provides evidence of active inclusion, which is the agenda in many quarters, and focuses on capacity building for both individuals and the communities in which they live, yet it has still not addressed need to its fullest extent.

The quality of life of many individuals who are offered assistance through supporting people funding improves greatly as they take strides towards genuinely recognising and fulfilling their role as citizens of Fife or of the region in which they reside. We have grave concerns about the reduction in that funding, the ramifications of which will be far reaching for service users, potential service users and service providers, including the voluntary sector and others. It is possible that a strain will be placed on other resources as regression takes place, with health deteriorating and crises increasing, resulting in the overall cost per person being greater than that of supporting people funding prior to the reductions.

The Scottish Executive must be commended for its forward thinking in initiating such a beneficial solution that affects the lives of many individuals. We believe that all vulnerable individuals should be offered opportunities that enhance their personal abilities, provide them with a quality life and assist in their conscious awareness of citizenship. Councils should not be put in the position of having to pick and choose. Care must be taken not to write off individuals, albeit unwittingly, by reducing supporting people funding. Thank you for listening.

**Helen Eadie:** Good morning. It is nice to see you here, as I have worked with you at a number of meetings on the issue. Can you say more about the growth in the number of elderly clients and the impact that that will have in the coming years?

**Stella Macdonald:** Certainly. The information to which I refer has been provided to me over the past few weeks. In Fife, it is estimated that between 2004 and 2009 there will be a steep increase—of about 22 per cent—in the number of elderly clients, which will rise from 5,840 to 7,125 people. We have many concerns about that. It is positive that people are living longer, but the increase is huge.

**Helen Eadie:** I seem to recall that at one of our meetings you said that you thought that Fife was going to experience the highest growth in the number of elderly people in Scotland. Am I right in thinking that you said that?

**Stella Macdonald:** I have been led to believe that that is the case. That was in the information that I sent to the committee as part of the petition.

**Rosie Kane:** It is nice to see you again. We met in Dunfermline when the Public Petitions Committee was out and about. Thank you for all the information that you have supplied us with,

which you have backed up in what you have said today.

When the Minister for Communities spoke about the supporting people budget in October 2005, he said:

"Anecdotal evidence suggests that the impact might not have been as adverse as expected—people have been able to carry over money from previous financial years. We are also told that some local authorities have topped up their resources, which they were always free and entitled to do."—[*Official Report, Communities Committee*, 26 October 2005; c 2540.]

Do you have any anecdotal evidence on that to present to the committee? How do you feel about what the minister said about the supporting people budget?

**Stella Macdonald:** Margaret Duncan might want to say something about that.

**Margaret Duncan:** My son Craig is 41 years old and has a learning disability. I will quickly give you his background. Unfortunately, he had a long spell in Lynebank hospital. I was not happy about that and carried a lot of guilt as a result. In my view, the system at Lynebank hospital was not very good. There were 30 patients in a ward and three staff. As a young mum, I realised that to get the services that I needed I had to fight for everything, and that is what I did. I was on many different committees in different areas and in the Fife rights office I found out that care in the community was coming to Fife. Fife Council was a leading light on care in the community—it adopted it a long time before other councils did.

When I heard that care in the community was coming to Fife, I went to the management of Lynebank hospital. There were to be five phases of release into the community and Craig's level of disability meant that he might not come out until phase 4. However, I am a pushy mum and Craig came out into the community in phase 2, on 6 April 1991. Craig now has a good quality of life—he lives in a lovely setting in a group home that is run by Fife Council and which is the property of Kingdom Housing Association. He gets one-to-one care almost 24 hours a day.

When I first heard about the supporting people proposals, I was concerned. In my view, care in the community is wonderful, although we were always frightened that the money would not be around. I sit on the Diamond Association, which stands up for the rights of disabled people in Fife, regardless of their disability. Those people are citizens of Fife and they are entitled to the same as everyone else. We have worked closely with Stella Macdonald and CRAG to express our concerns. That is why we are here today.

I just do not understand the financial issue that Rosie Kane mentioned. If there was more money

around, we would be keen to know that. Stella Macdonald and I are privileged to have monthly and quarterly meetings with Fife Council's head of social services, who has been in post for two years. He has reassured us that the quality of life of people who live in the community, such as my son, will be sustained, but my fear is that if the money is not there, that will not be possible. I want the quality of life of my son and of people like him to be maintained. That is why I am here today.

**Mr Gordon:** Is the petition essentially about maintaining the supporting people budget in Fife at its current levels and preventing it from being reduced, or do you want that budget to be increased so that unmet need can be addressed?

11:00

**Stella Macdonald:** The answer is perhaps both, because there is always unmet need out there, especially with regard to some of the people whom I mentioned. I am well aware of the Scottish Executive's reference group on autism spectrum disorders, because I sit on it. As it is clear that support for adult needs in particular is very thin on the ground, increasing funding to cater for those needs would be beneficial. Moreover, a huge population of schoolchildren who are on the autism spectrum, especially those who are at the higher functioning end, are moving into their adult years, and to date none of the supporting people fund, which would be useful for those people, has been allocated to assist them. An increase in funding would be great, but we are here this morning to highlight what is happening not just in Fife but in other areas where funding has been reduced.

**Mr Gordon:** Have you asked Fife Council to fill any potential gap?

**Stella Macdonald:** Yes. We have been working with councillors on that matter. They are doing their very best but, as I am sure you will appreciate, money is always being used up, and trying to find funding from other pockets or areas in the region is quite a disturbing business and can be detrimental to the service user.

**Jackie Baillie:** I welcome both Stella Macdonald and Margaret Duncan to the committee.

I remind everyone that other funding channels, such as general social work funding and learning disability funding, existed before the supporting people fund was introduced and still exist, so we are not putting all our eggs in one basket. The key question is whether there is ever enough funding.

Do you agree that getting that additional £400 million of supporting people funding into Scotland was a good thing because, irrespective of what is going on now, it has made a huge difference to service provision on the ground?

**Stella Macdonald:** Absolutely.

**Jackie Baillie:** Okay. Sometimes I think that we lose sight of that when we debate what should happen next.

You have very helpfully talked about the allocation formula and the scale of deprivation in Fife—although, coming from West Dunbartonshire, I think that people there probably share similar views. How could resources be better distributed than they are at the moment?

**Stella Macdonald:** The basic point is that, if there is a need, it should be met. However, there will always be a need and there will never be enough resources. I very much welcomed the fact that, initially, supporting people funding was uncapped. That was a very commendable move, because people were able to run with the funding and utilise it in their regions. In Fife, we had—and, indeed, still have—an excellent team who found people like us who needed and would make use of the resources. Obviously, people out there still need those resources.

However, I thought that it was a shame when the funding was capped and the formula was used to redistribute it. I know that, deep down, people meant well and felt that they were doing the right thing but, speaking as a service user, I believe that service users are at the bottom of the pile, and that we have to think of them. Resources should be specific to people's needs; supporting people funding was quite specific and, indeed, captured a group of people who were not captured before.

I hope that those comments are useful.

**Margaret Duncan:** I am concerned about maintaining the quality of the care that my son and people like him are receiving, and Fife Council has reassured me that that will happen.

I want to share something that I think members need to hear. Stella Macdonald and I went to Perth to attend what was called a blethering conference—which certainly sounded like a good thing for me to go to. I attended the conference to support people who have learning disabilities, such as my son, Craig. However, I came away depressed by what I heard in one workshop, which was full of young people with mental health problems. I sat and listened to those young people, who were aged from about 20 years old upwards, say how well they had come on with supporting people money. They were concerned for the people whom they had met who were still to come up that part of the road and who would not receive that money.

I went to the conference to lead the light for people with learning disabilities, but I left it saddened and depressed about young people with mental health problems. People from all over

Scotland were at that conference. We felt that more things would move on after the conference, and many things did, but I still felt that we had not moved on enough.

**The Convener:** This is another interesting petition. Do members have suggestions for progressing it on the petitioner's behalf?

**Helen Eadie:** Writing to COSLA and to the Scottish Executive for their views might help us. It would also be appropriate to write to Community Care Providers Scotland, which is the association of voluntary sector organisations that provide care and support services in Scottish communities, and to the Scottish Federation of Housing Associations. Perhaps the Scottish Council for Voluntary Organisations might also be relevant; I do not know whether other organisations are.

**John Scott:** It might be appropriate to write to the Scottish Commission for the Regulation of Care for its views.

**Rosie Kane:** I do not know whether Shelter Scotland has been mentioned. Did Helen Eadie mention COSLA?

**Helen Eadie:** Yes.

**The Convener:** Do members have views on John Scott's suggestion of the care commission?

**Jackie Baillie:** The commission covers structural rather than funding issues, but if the committee is writing all those letters, it might as well do another.

**The Convener:** We will write to all those organisations and, when we receive all the responses, we will reconsider the petition. We will advise the petitioner of those responses and keep the dialogue on the petition going as far as we can. I thank Stella Macdonald and Margaret Duncan for presenting the petition.

**Stella Macdonald:** I am probably not supposed to ask this, but could cross-party committees take on the issue?

**The Convener:** We do not send petitions to other committees until we have addressed in writing the points that have been made. It might be appropriate to ask a committee or a cross-party group to consider the petition.

**Helen Eadie:** The Health Committee is undertaking a big post-legislative scrutiny inquiry on care in the community.

**Jackie Baillie:** The cross-party group on learning disability, of which I am the convener, has raised the issue with ministers several times. I am happy to share that correspondence with the petitioner.

**The Convener:** We will consider what action to take once we have received the responses. There are other avenues to pursue, which we will do at the appropriate time.

I have been asked to point out that someone at the table appears to have left their mobile phone switched on, which is causing problems. I was prepared to accept responsibility, because I do not know how to switch off my BlackBerry, but it appears to be a mobile phone.

**Jackie Baillie:** It was my BlackBerry—sorry.

### **Dalkeith Bypass (PE928)**

**The Convener:** Our next petition is PE928, by Margot Russell, on behalf of Dalkeith and Danderhall Labour Party. It calls on the Scottish Parliament to support the Scottish Executive's proposal to build the Dalkeith bypass. Margot Russell will make a brief statement in support of the petition. She is accompanied by Ann Stewart-Kmicha and Colin Macfarlane. Welcome to the committee—I hope that I have pronounced the names correctly.

**Ann Stewart-Kmicha (Dalkeith and District Community Council):** You have.

**The Convener:** It will be interesting to hear your comments, after which we will discuss the petition.

**Margot Russell (Dalkeith and Danderhall Labour Party):** I thank the committee for the opportunity to speak to the petition. I represent Dalkeith and Danderhall Labour Party and I speak in support of the bypass.

Committee members may wonder about the need to collect signatures in favour of a bypass for which the Scottish Executive had already publicly given the go-ahead; a bypass that the local—and I emphasise local—people had demanded for many years; and a bypass for which local and national politicians had lobbied successive Governments over the years. A public inquiry in 1992 and another one in 1996 supported the need for a dual carriageway. Both inquiries involved public consultation and both backed the bypass.

The reason why we lodged the petition and why we are here today—[*Interruption.*]

**The Convener:** I am sorry. There is a lot of disruption and it is not fair to the petitioners—members at this end of the table cannot hear. We will wait a second until the people entering the public gallery have settled down.

Okay. Thank you, Margot.

**Margot Russell:** Will I start from where I had got to?

**The Convener:** Yes. We were doing all right up to when I stopped you, but I thought that it was getting too noisy.

**Margot Russell:** The reason why we lodged the petition and why we are here today is quite simple and straightforward: members of Dalkeith and Danderhall Labour Party were approached by many local people who were concerned that the negative publicity from the save Dalkeith park campaign would change the Executive's decision.

We collected the signatures for the petition on two Saturdays. The petition gives a snapshot of local support and we were delighted by the number of people who wanted to sign it. People saw us not just as a political party but as local residents. Their overwhelming feeling was that at last their voices would be heard. They were fed up with protesters who they recognised were not all local. The bulk of the protesters use Dalkeith park for their recreational needs but do not have to put up with Dalkeith's traffic and air pollution every day.

The claim by the save Dalkeith park campaign protesters that the bypass would go through Dalkeith park was quickly shown to be misleading when we produced maps showing the route of the bypass. The bypass goes through the narrowest end of the park and is well away from the ancient oak woods and other areas of special interest. It also keeps away from the adventure playground, which is popular with families.

The protesters claim that an environmental injustice will be caused by the bypass. Dalkeith has an elderly population. Many people are ex-miners and have the breathing problems that are associated with mining. The poor air quality in Dalkeith is not conducive to their health or that of asthma sufferers. Surely it would be environmental justice for the people to have good air quality and safer roads. The bypass will remove from the town centre the heavy traffic that is detrimental to the health of the community.

The people of Dalkeith and the surrounding areas see no need for another public inquiry. We feel that the Scottish Executive has already made the case for the A68 Dalkeith northern bypass. We trust that the Public Petitions Committee agrees and we ask you to endorse the Scottish Executive's decision to give the go-ahead for the construction of the long-awaited bypass. We ask you to support the people of Dalkeith.

**The Convener:** I open up the discussion to members of the committee.

**Rosie Kane:** I welcome the witnesses to the Public Petitions Committee. I am not quite sure what is being asked here, or whether it is in line with what the committee normally does. Convener, on similar occasions in the past, I have heard you say that the Public Petitions Committee cannot ask for certain things. Could you keep me right?

11:15

**The Convener:** You are absolutely right. I make no comment on the petition, but I point out that the petitioner can ask us to take certain actions and it is up to the committee to discuss the issue. If a member suggested that we do what the petitioner asks, I would say whether we can do that. However, the petitioner can ask us—we regularly get similar requests. If members wanted to endorse what the petitioner had asked for and we could not do so, I would comment on that. In that case, we would not endorse the petition, but we would try to deal with it appropriately. If you have any comments on the petition, I am happy to address them.

**Rosie Kane:** Is the petition to ask the Scottish Parliament to support the Scottish Executive on a road that is already being built?

**Margot Russell:** Correct.

**The Convener:** I was not aware that the road is being built.

**Ann Stewart-Kmicha:** As what we consider to be the local community council, of which I am the chair, we were distressed that a voice had been heard at the Public Petitions Committee claiming to be that of the local community council. We support the petition because, as the local community council, we want the local people's voice to be heard—that is, the people who stay in the town of Dalkeith. That is pedantic, but that is the problem with words. Which community council is the local one? Is it the one whose boundaries are closest to where the new bypass will go, or is it the one whose area has all the traffic going through it that will be relieved by a new bypass?

Another pedantic point is about the claim that the bypass will bisect Dalkeith country park. Strictly speaking, the word “bisect” means to halve, but the bypass will by no manner of means halve Dalkeith country park—it will go through it, but at the top corner. That misinformation is a cause of concern for local residents and the petition gives them an opportunity to have their voice heard by the Public Petitions Committee.

**Rosie Kane:** Jade Allison was perfectly entitled to have her voice heard by the Public Petitions Committee, too. When Jade and others were here, we asked about some of the issues that you have raised. For example, the issue of who represents whom was raised, so we have been over that, as you will probably know from reading the *Official Report* of that committee meeting. We now have possible accusations against Jade Allison on the issue of who does or does not represent the community. In the absence of the other group, we are in a difficult situation. I am not sure what the committee is doing with the petition, what exactly is being requested and what we are supposed to get behind. I need clarity on those issues.

**Margot Russell:** As Ann Stewart-Kmicha said, given the negative publicity that was projected in the media, we felt that local people's voices had to be heard. My understanding is that the Public Petitions Committee is a vehicle for that type of representation. The road is going ahead—in fact the preparation work started way back in the 1990s. However, as I said in my introduction, although it may sound daft to ask for support for a project that has already started, because the people of Dalkeith and the surrounding areas were concerned, we felt that it was appropriate to bring the issue to the committee's attention.

**The Convener:** To clarify, I received the petition a good while ago. I was not aware that the building of the road had started but, if I had been, that would not have changed anything. When we start the process and a petition is in train, it has the right to be considered. On several occasions when a petition has been superseded by events, we have still considered its merits. As Margot Russell said, the petition was lodged in response to our consideration of a petition from people who have a different perspective on the issue. The petition may have been superseded by the building of the road that is under discussion. I would think that all we can consider now is whether the balance of the argument should be redressed.

**Jackie Baillie:** I confess that I do not know Dalkeith or the intricacies of who represents which area, so the map that we have been given is supremely helpful in charting where everything is. Ann Stewart-Kmicha is from Dalkeith and district community council and Colin Macfarlane represents Midlothian Chamber of Commerce and Enterprise. I would like to hear their views on why a bypass is needed.

**Colin Macfarlane (Midlothian Chamber of Commerce and Enterprise):** I will put forward the business case for a bypass. Midlothian Chamber of Commerce and Enterprise represents the views of its 380 members in the Midlothian business community in discussions with local and national Government. The petitioners sought the chamber's views on the A68 bypass and we are happy to support the petition.

Because of the interest that was generated by the save Dalkeith park campaign, we decided to canvass all our members' views by sending them a questionnaire by e-mail. As happens with all questionnaires, we received a modest response. Respondents were equally divided between supporters and opponents of the bypass.

When we evaluated and discussed the results of the questionnaire, we found that members of the chamber are in favour of the bypass for several reasons. The future economic prosperity of Midlothian in general and Dalkeith in particular depends on Midlothian Council's ability to fulfil the



statutory requirements of the Edinburgh and the Lothians structure plan. In the draft Midlothian local plan, land that is east of Dalkeith has been designated for economic development and housing but, without the A68 bypass, the proposals would not be put into effect and the future prosperity of Midlothian would be held back.

Perhaps the most compelling argument for the bypass is the improvement that the road's construction will bring to the environment in Dalkeith town centre. Some 500 heavy goods vehicles and 3,500 other vehicles pass through the town centre during the course of a day. Of course, not all those vehicles will be removed from Dalkeith when the bypass opens, but the benefits will be considerable because there will be a reduction in congestion, pollution, noise and vibration. There should also be a considerable reduction in accidents in the town and on the approaches to it.

It is well known that there is usually a downturn in a town's retail sector when a bypass opens. However, members of the chamber are happy to accept that situation, which will gradually be reversed as local shoppers realise that the environment has improved because through traffic has reduced. In Dalkeith, the new bypass should open at about the time of the planned regeneration of the town centre. The overall benefit to the community will be a safer, more pleasant town in which to live and work.

Many members of the chamber objected to the line of the bypass and its construction when we canvassed their views in our questionnaire. However, many objections were misinformed, as a result of the emotional arguments that the save Dalkeith park campaign had made. As members heard, the route will affect Dalkeith country park only marginally and will not affect Dalkeith palace. Midlothian Chamber of Commerce and Enterprise supports the petition, because the A68 bypass will deliver economic benefits to residents and businesses in Midlothian.

**Jackie Baillie:** I am clear about the views of the chamber of commerce. Will the community council representative put her point of view?

**Ann Stewart-Kmicha:** Believe it or not, I have lived in Dalkeith for more than 50 years, because I was born there—I hope that I am wearing well.

**Jackie Baillie:** Absolutely.

**Ann Stewart-Kmicha:** It is a privilege to be able to say that I have lived in the community for such a long time. That is the background to my involvement in the matter. I have been involved in my local episcopal church and local schools and I am still involved in the community council.

The people of Dalkeith have been fighting for many years for a reduction in the volume of traffic

that comes through the town. A bypass to the east of Dalkeith is the only possibility. The air quality and the noise pollution from juggernauts have been getting worse and worse. The committee has the two-page A4 document that I submitted in December on behalf of the community council and I am happy to expand on the points that are made in that document.

Dalkeith is an old burgh town and it is not meant to have a large volume of traffic going through it. The traffic must go round the town. The A68 follows Dere Street, which is the old Roman road. Since the 1960s, the traffic has flowed through Dalkeith in a Z shape. That is probably where the problem lies. The community council is conscious that, wherever the bypass goes, there will be an impact on the environment. Over the years, various community councillors have been involved in public consultations on proposed routes for the bypass. The current route is by no means the first route that has been proposed. It is in the knowledge of that history that I speak today.

We consider that the impact of the bypass on people who go to the country park will be minimal. We acknowledge that the equestrian facilities and part of the park will be affected, but the effect should be minimal. When a bypass is constructed, somebody has to be affected. However, this bypass will not be a big dual carriageway; it will be a single-carriageway alternative route that will enrich the quality of life of the residents of Dalkeith. As somebody asked me, "Where do we place value these days, on a tree or on a human being?" That is how the argument is perceived in the Dalkeith area.

There are other concerns from the perspective of local schools. The A68 bisects Dalkeith and children who travel to the local primary schools have great difficulty in crossing the road. I could go on about that at length. The community in Dalkeith was delighted when, at the end of June last year, the then Minister for Transport announced that the bypass was to go ahead as a matter of urgency. "At last," we thought. As time passed, voices were raised in protest from people who seemed to come from outwith the local area. I have been in discussions with environmental groups and various other groups of protesters. We agreed to differ, but we did so amicably.

The people of Dalkeith are now looking forward to the A68 bypass, but they are still concerned. The recent eviction of protesters from the trees caused a lot of concern locally, but the hope is that the bypass will go ahead. The community council will not stop there. We are a vigilant community council and we give the local authority a fairly hard time. You might be surprised that a community council is supporting a petition from a political party. The community councillors are not members

of any political party, but we need the bypass for the benefit of our local community. People from all political parties were at the hustings during the 2003 Scottish Parliament elections and they all supported the A68 bypass then, strangely enough.

**Helen Eadie:** I have no problem with welcoming you and supporting your petition. I do not know whether other members have reservations, but I whole-heartedly support you. I have delivered many Labour Party leaflets in the Dalkeith area and my father-in-law was the MP for Midlothian so it is with great delight that I support you. I put my hand up—I am guilty, convener. After we discussed the other petition on the matter, I spoke to the local MSP, Rhona Brankin, because I was concerned that the petitioners claimed to be speaking on behalf of the whole community and I questioned whether that was the case.

Given the repercussions of the campaign such as the eviction of people from the trees, has anyone in the local authority or the community pulled back on their commitment to the bypass? Do you think that it will go ahead?

**Ann Stewart-Kmicha:** I understand that everything is going full steam ahead.

11:30

**Helen Eadie:** That is fine.

**Rosie Kane:** I wish the community well and hope that it experiences huge traffic reduction. However, I am concerned that over the coming decades it will experience a huge amount of pollution. This is neither the place nor the time to discuss that issue, which has been well rehearsed. I know that the petitioners from Dalkeith and Danderhall Labour Party are aware of it. I hope that the community gets clean air and safer streets in future years. I have made my position on the bypass clear, both in the chamber and in motions that I have lodged. We should be concerned about the entire community and understand that pollution does not recognise boundaries. Environmental issues affect people all over the world. That is why people feel that they have an interest in schemes that are likely to cause increased problems for the wider community in the future.

I do not believe that any further action can be taken on the petition, which is more like a motion than a petition.

**The Convener:** I see the approach that we should take to dealing with the petition. John Scott would like to make a contribution before we proceed.

**John Scott:** Like other members, I welcome the proposal for a Dalkeith bypass, which is sensible. The need for such a bypass has been established for many years—40 years or 10 years, depending

on the figure that we look at. It is probably time for us to get on with building it.

**Rosie Kane:** You should be happy.

**John Scott:** I am.

**The Convener:** It was news to me this morning that work on the bypass had already begun. The petition was submitted to us to address concerns arising from PE900, the petition that we received initially. We are already considering responses from the organisations that we contacted in respect of that petition. After collecting that information, we would have reconsidered PE900, but even if PE928 had not been submitted, it would have been superseded by the fact that work on the road has already begun. If we link the two petitions, we can address them both when we receive the responses to the initial one. It would not necessarily be useful for us to make a decision on the petitions this morning, as issues that we could address and take forward in some way may arise from the responses. If we link the petitions, we can address them in the round, instead of looking at them in isolation. The problem with what Rosie Kane is suggesting is that it would involve closing one petition and keeping the other open. We would have to deal with the other petition again when it came back to us. If we link them, we can address them at the same time and decide what to do with them on a more appropriate occasion.

**Helen Eadie:** I agree that it would be sensible for us to link the petitions. Would the committee be minded to send the *Official Report* of this meeting to the people who have already written to us? I do not mind if it is not, but it might be helpful for us to provide them with the background to our decision.

**Rosie Kane:** Is the committee concerned about setting a precedent for petitions from political parties and others objecting to petitions that have already been submitted?

**The Convener:** We are always careful about setting precedents. We have received petitions from political parties before and cannot rule those inadmissible. We must treat every petition on its merits. PE928 is in the name of the Dalkeith and Danderhall Labour Party, but it has wider support.

**Rosie Kane:** What about petitions objecting to petitions?

**The Convener:** We have received such petitions previously. There are different sides to an argument and people submit petitions both in support of and against particular proposals.

**Rosie Kane:** Has a petition been submitted previously that directly criticised a previous petition?

**The Convener:** PE928 was submitted in response to a previous petition. I am not sure that

its wording criticises that petition—it merely puts forward a different point of view. We have encountered such difficulties in the past. I do not want to set dangerous precedents, but an alternative view was brought to the committee this morning. I received the petition some time ago when the issue was very much live. It was an alternative point of view to the one that we had heard and, in that way, it was legitimate.

**Rosie Kane:** I was just seeking clarification of the matter. I did not mean to be awkward.

**The Convener:** Are members agreed? We can follow Helen Eadie's suggestion to send additional information to those to whom we have already written.

**John Scott:** No, I am not entirely in favour of sending a copy of the transcript of the meeting. It is up to others to do that. Doing that prejudices people's view as to how they might write back to us. I do not believe that that is necessary.

**Helen Eadie:** We usually send copies of the meetings' transcripts.

**John Scott:** In the interests of fair play, we are going to get the responses from those to whom we wrote regarding the previous petition.

**Helen Eadie:** Will the clerk clarify after the meeting whether a copy of the transcript of the previous meeting was sent? If it was, then, in the interests of balance and fairness, both should go. If it was not, I will accept John Scott's view on that.

**The Convener:** A transcript is not sent.

**Helen Eadie:** The *Official Report* is sent.

**The Convener:** The people to whom we write are advised where they can access the *Official Report*.

**Helen Eadie:** We could do the same in this instance.

**John Scott:** I think that that would be fairer.

**Helen Eadie:** We can make it clear where they can access the *Official Report* of the meeting.

**The Convener:** Are members happy with that course of action?

**Members indicated agreement.**

### **Victims of Crime (Financial Reparation) (PE914)**

**The Convener:** The next petition is PE914, from Peter Fallon, calling on the Scottish Parliament to urge the Scottish Executive to amend criminal justice legislation to require criminals to make financial reparation to the victim or victims of their crime. The petitioner considers it unfair that criminals are under no obligation to make

reparation to the victim of their crime. The petitioner argues that in situations in which there are financial implications, the criminal should be forced to carry the financial burden. Do members have any suggestions on how to deal with the petition?

**Jackie Baillie:** From Scotland's criminal justice plan, which was published at the end of 2004, I understood that the Executive was interested in further exploring the use of an offender's resources, if he or she has any, to compensate his or her victim or victims directly. I do not know what stage the exploration has reached. Also, the Home Office issued a consultation paper. We should write to the Executive and the Lord Advocate for their views on the petition. There may be merits in exploring the petition further.

**The Convener:** Are members agreed on that?

**Members indicated agreement.**

### **Freemasons (Register) (PE927)**

**The Convener:** The next new petition is PE927, from Hugh Sinclair, on behalf of the movement for a register of freemasons, calling on the Scottish Parliament to urge the Scottish Executive to introduce legislation requiring the Church of Scotland to require its clergy to declare, in a public register, membership of the freemasons or any society that has a secret oath-bound membership. Do members have any suggestions on how we deal with the petition?

We have considered this type of issue before. There are two aspects to it. First, the Justice 2 Committee looked at the issue of declaration of membership of the freemasons and we know where Parliament stands on the issue.

Second, there is a difficulty in Parliament instructing an independent organisation to have a register of freemasons. That is a matter for the Church of Scotland to decide. It is not appropriate for the Parliament to do that. There are reasons why the petition is legitimate, but I wonder what constructive action we can take.

**Helen Eadie:** I agree. The relevant committee did not just have a look at the matter; it had an in-depth inquiry. The report can be referred to when we write back to Hugh Sinclair so that he knows that there was a balanced discussion about the issue. People on the outside must not be given the wrong impression that Parliament looked at the matter quickly and dismissed it. There was a lot of discussion, thought and research on the matter. I support what the convener has said. The committee has never taken the view that it should instruct organisations.

**Rosie Kane:** The issue is raised continually. I see that less as a nuisance and more as a

groundswell of concern. I wonder whether we could seek the views of the Church of Scotland, in the same way that we seek views when there are petitions about other organisations.

**Jackie Baillie:** I will leave aside the substance of the argument for the moment. I have a slight concern about consistency. We received a petition from the same petitioner in May last year that called for exactly the same thing, except that it related to the Scottish Episcopal Church rather than the Church of Scotland. We did not agree to seek the views of that church then and I am keen that the committee should, at the very least, operate consistently. There is a difficulty. To single out a specific church simply to get the matter back on the agenda is perhaps to use the committee creatively. I have the same reservations now that I had with the previous petition and therefore agree with the convener's recommendation that we close consideration of the petition.

**The Convener:** Do members agree?

**Rosie Kane:** As I said, we should seek the views of the Church of Scotland. I do not see why we cannot do so. We did not seek views on the other petition, but we can change our approach.

**The Convener:** The petition is on a separate matter and we must form a separate opinion on it. We regularly look back at decisions and, if we set a precedent, we must consider whether following that precedent is appropriate.

**Rosie Kane:** Sometimes we continue with good ideas, but ideas will sometimes be bad.

**The Convener:** The petition is new, so we must reach a new decision. I am responsible for trying to get committee members to reach consensus, but we must vote if members cannot do so. Do members agree that we should close consideration of the petition?

**Rosie Kane:** We should write a letter to seek the views of the Church of Scotland. That is hardly rocket science.

**Helen Eadie:** The other members of the committee agree with your recommendation, convener.

**Rosie Kane:** I do not.

**The Convener:** We will have to vote on the matter. The committee must decide whether to agree to my recommendation that we close consideration of the petition or to Rosie Kane's recommendation.

The question is, that the committee agrees to write to the Church of Scotland. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Kane, Rosie (Glasgow) (SSP)

**AGAINST**

Baillie, Jackie (Dumbarton) (Lab)

Eadie, Helen (Dunfermline East) (Lab)

Gordon, Mr Charlie (Glasgow Cathcart) (Lab)

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

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

**The Convener:** The result of the division is: For 1, Against 5, Abstentions 0. That proposal is therefore disagreed to.

The question is, that the committee agrees to close consideration of petition PE927. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Baillie, Jackie (Dumbarton) (Lab)

Eadie, Helen (Dunfermline East) (Lab)

Gordon, Mr Charlie (Glasgow Cathcart) (Lab)

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

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

**AGAINST**

Kane, Rosie (Glasgow) (SSP)

**The Convener:** The result of the division is: For 5, Against 1, Abstentions 0. Consideration of the petition is therefore closed.

### European Drinking Water Directive (PE929)

**The Convener:** The next petition is PE929, by George Packwood, which calls on the Scottish Parliament to review the implementation of European Union drinking water directive 98/83/EC in relation to the replacement of lead piping in public and private sector domestic properties to ensure that drinking water in Scotland has zero lead content. Members have been given a briefing.

Do members have any views on the petition? It might be worth seeking the views of a number of bodies to get the bigger picture. It has been suggested that we could seek the views of organisations such as the Scottish Environment Protection Agency, COSLA and the Scottish Executive.

**Rosie Kane:** The chief executive of Scottish Water has said:

"Scottish Water is working closely with the Scottish Executive to develop a long-term strategy to reduce lead in drinking water supplies."

Perhaps we should ask about where that long-term strategy is at.

**The Convener:** Do you want to ask Scottish Water and other bodies?

**Rosie Kane:** Yes.

**The Convener:** We could ask Scottish Water, SEPA, COSLA and the Scottish Executive.

**Rosie Kane:** What about Friends of the Earth Scotland?

**Helen Eadie:** We could also ask the drinking water quality regulator for Scotland.

**The Convener:** Okay. Did you mention Friends of the Earth, Rosie?

**Rosie Kane:** Yes—Friends of the Earth Scotland.

**The Convener:** Do members agree that we should contact those organisations to seek their views?

**Helen Eadie:** I was going to mention one of the health agencies, but that should be enough.

**The Convener:** Okay. We will consider the responses.

## Current Petitions

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

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

#### NHS Services (Rural Areas) (PE826)

11:45

**The Convener:** The first current petitions are PE776, PE814 and PE826, which all relate to NHS 24.

PE776, by John Macpherson, on behalf of Braemar community council, calls on the Scottish Parliament to investigate the merits of proposed new arrangements for out-of-hours medical services in remote rural communities such as Braemar.

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

PE826, by Mr W D R Chalmers, urges the Scottish Executive to ensure that NHS services in rural areas such as Mid and Upper Nithsdale are adequate, equitable and acceptable—as they are required to be by the National Health Service Reform (Scotland) Act 2004—especially out-of-hours services.

At its meeting on 8 September 2005, the committee agreed to write to the Minister for Health and Community Care and to NHS 24. Responses have been received and circulated to members, as has correspondence that we have received from the petitioner for PE814. Do members have any suggestions on how to deal with that petition?

**Helen Eadie:** Mr MacPherson's letter to the committee, which was received the other week, raises some issues that are still of concern to him. Perhaps we could write to the Scottish Executive to ask it to respond to the issues that he has raised. I was in Killin last week and noticed just how difficult it would be for emergency vehicles to access some areas, so it would be useful to hear the Executive's views in that regard.

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

**Members indicated agreement.**

**John Scott:** I am slightly dismayed that the Scottish Ambulance Service appears not to be

prepared to give out information because it would somehow inhibit our ability to have a free and frank discussion. I find that extraordinary.

**The Convener:** We have had the Parliament's legal department examine that issue closely. The annex to the letter that the Scottish Ambulance Service sent us was marked private and confidential. The issue is whether if we allowed the information to go into the public domain under the freedom of information regime, we might inhibit a free and frank exchange. For example, the SAS might not send information to the Parliament in future because it remembered that the Public Petitions Committee did not recognise a document as being private and confidential. We have been given privileged access to information that the SAS trusts us with. Such information is excluded from the need to divulge by an exemption in the Freedom of Information (Scotland) Act 2002, which we used in this case.

We have been given information that we can use to help us to consider the petition but which the Scottish Ambulance Service has requested we do not put into the public domain. If we were to put it into the public domain, not only would the Scottish Ambulance Service be wary of providing us with information in future, but we would send a signal to other organisations that the Public Petitions Committee cannot restrict information from going out into the public domain. That would prevent us from being given good information.

**John Scott:** I am looking beyond that issue. Why should the Scottish Ambulance Service have made information available to us on a private and confidential basis? We are all grown-ups. This is the Scottish Parliament and we can cope with difficult information. I would have thought that it would be sensible for us to have access to the information regardless of whether the SAS thinks that the information should be private and confidential.

**The Convener:** It wanted us to have the information but it wanted it to be restricted in some way. An element of trust is involved.

**Helen Eadie:** For the moment, we should simply ask the Scottish Executive to respond to the points that Mr MacPherson has raised.

I tend to agree with the point that John Scott is making. However, you are right to say that, unless we get those who have ownership of the private and confidential information to give us their blessing to release it into the public domain, we cannot do so. We depend on people having trust in us.

**The Convener:** The suggestion is that we write back to the Executive asking for information on the points raised by the petitioner.

**John Scott:** Should we consider writing back to the Scottish Ambulance Service as well? We could ask whether, in the light of the foregoing discussion, it would consider releasing the information to us. Members of the committee certainly do not have access to the information; I presume that the only people who have access to it are the clerks.

**The Convener:** No, the information was circulated to members.

**John Scott:** That is my mistake. I beg your pardon.

**The Convener:** The information was circulated when the petition was last considered by the committee. However, if you would like us to write to the Scottish Ambulance Service, we can do so.

**John Scott:** If we have received the information, that is my mistake, although I note that other members were not aware that we had received it either.

**Helen Eadie:** Is your point that you want to ask the SAS whether it is willing to have the information released into the public domain, as I suggested, and to get its blessing to do so? If so, I think that you make a fair point.

**John Scott:** Yes, I think that we should be able to release the information into the public domain.

**Helen Eadie:** Let us ask the Scottish Ambulance Service whether it is willing for us to do that. If it is not, I think that we will just have to accept that.

**The Convener:** Okay, we will do that.

### **Coastal and River Erosion (National Strategy) (PE878)**

**The Convener:** Our next petition, PE878, by James A Mackie, calls on the Scottish Parliament to urge the Scottish Executive to consider the need for a national strategy to address the impact of coastal and river erosion in Scotland. At its meeting on 8 September 2005, the committee agreed to write to the Scottish Executive and to Moray Council. Responses have been received and circulated to members.

**Jackie Baillie:** Well, convener, what can I say? When we first considered the petition, I made the point that the petition was ahead of its time and was based on a false premise. That has been confirmed by the Scottish Executive, which has indicated that it has not had an application for funding and that substantial funding is available. Moray Council has also outlined the action that it is quite appropriately taking in respect of a flood prevention scheme in its area. I note that the council has commissioned Jacob Babbie to carry out a survey of flooding in and around the area

described by Mr Mackie. I do not know whether we should send him a copy of the responses, but that is the committee's normal practice.

**The Convener:** It would be interesting to see Mr Mackie's response to the information.

**Jackie Baillie:** Indeed, so I think we should send it to him.

**The Convener:** We shall send it and await his response.

### **National Burns Heritage Trail (PE861)**

#### **Robert Burns (Culture and Tourism Policies) (PE824)**

**The Convener:** Our next petitions are PE861 and PE824, on Burns heritage.

PE861, by Bob Leitch, on behalf of the board of directors of the Ayrshire Chamber of Commerce, calls on the Scottish Parliament to urge the Scottish Executive to take immediate action to create a task force to integrate and develop all Burns assets, properties, and locations across Scotland, resulting in a national Burns heritage trail ready for the year of homecoming in 2009 and available for promotion internationally by the end of 2006.

PE824, by Peter Watson, on behalf of Alloway and Doonfoot community council, calls on the Scottish Parliament to review the commitment of the Scottish Executive to placing Robert Burns and his legacy at the heart of its culture and tourism policies, and to urge the Scottish Executive to assume responsibility for bringing together all interested parties to ensure that the flagship assets of our Burns heritage are properly restored and developed in good time for the major events planned for the 2009 homecoming year, marking the 250<sup>th</sup> anniversary of the birth of the national bard.

At its meeting on 5 October 2005, the committee heard from the Minister for Tourism, Culture and Sport and agreed to seek the views of the petitioners on that evidence session. Responses have been received and I would be happy to hear members' views.

**John Scott:** It appears to be a good outcome for the Public Petitions Committee. In fairness, I do not think that it is entirely down to us, but nonetheless it is good news and I welcome the letters from Ayrshire Chamber of Commerce and from Alloway and Doonfoot community council.

**Helen Eadie:** I agree with John Scott. It is definitely a good news story, because the community wins. There is just one point that I think we could pick up on in the response that Peter Watson e-mailed to Eileen Martin on 13 February.

His e-mail points out that the community council is delighted with the response, except on one point that does not seem to be correct. It says:

"In col 2044 the minister talks of the various bodies and individuals she intends to have on the advisory group but makes no mention of any local involvement. The council and the residents hope that this is an oversight by the minister and that local involvement will take place in recognition of their work in bringing the problem to Parliament."

Perhaps we could send that response on to the minister.

**The Convener:** We would have to keep the petition open to allow that in case a response came back. Are you happy that we do that?

**John Scott:** I do not know that it is necessary.

**Helen Eadie:** It is just that local involvement seems—

**John Scott:** I agree. Fair enough, we can keep the petition open until we get a response back from the minister. I have the feeling, which I cannot substantiate, that local representation has probably taken place. The area is just outside my constituency, so I am not directly involved in the matter. I think that the point might have been resolved, but it would be nice to have confirmation from the minister on that.

**The Convener:** We could, as we have done with an earlier petition, write to the minister and make her aware of the *Official Report* of today's meeting but still close the petition.

**Helen Eadie:** That would be fine. It means that the issue is being flagged up to her. As long as she is aware of it, we have done our job.

**The Convener:** Are members happy that we do that and close the petition?

**Members indicated agreement.**

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

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

At its meeting on 25 May 2005, the committee considered a response from the Minister for Health and Community Care and agreed to seek the petitioner's views on that response. Despite a number of reminders being sent, no response has been received from the petitioner.

**Helen Eadie:** Perhaps we should close the petition on the basis that, despite the strenuous efforts that the committee clerks have made, no response has been received. If the petitioner is not writing back and letting us know her views, I do not see what further action we can take.

**The Convener:** Do members agree?

*Members indicated agreement.*

### Health Professionals (Regulation) (PE802)

**The Convener:** Our next petition is PE802, by Mark Russell, which calls on the Scottish Parliament to express its deep concern that, despite health being a devolved matter, the regulation of health professionals has been reserved to the Westminster Parliament.

At its meeting on 28 June 2005, the committee agreed to write to the petitioner and the British Psychological Society. Responses have been received, so I would be happy to hear members' views on what we should do with the petition now. Is there anything that we can do, given the petitioner's view?

**Helen Eadie:** Given that the minister has responded, saying that he does not

"consider devolution of professional regulation to be a major issue concerning the quality of health services in Scotland",

there is not much more that we can do.

**John Scott:** I wonder whether that is indeed the case, because there seems to have been a variety of responses from the different organisations that have been contacted, some of which take a different view from the minister and say that the matter is worthy of further debate. I am not sure how we would progress the matter, because the minister has already responded. We might want to pass the petition to the Health Committee to make it aware that there are other views on the matter than those of the minister.

**Jackie Baillie:** What struck me about the responses was that everybody wants to ensure the highest possible professional standards. The debate should not be about whether that is done at Westminster or at the Scottish Parliament, but about the substance of the matter, which is how we raise those standards. Therefore, instead of focusing on whether the matter is dealt with here or there, we might be better served by passing the petition on, although I do not know to whom. The point about raising standards does not concern the Scottish ministers, so I support Helen Eadie's view that we should close the petition. I do not know whether we can send it elsewhere for information on the general point about standards.

**The Convener:** We could send the petition to the Health Committee for information but not ask it to do anything with it. Perhaps we could send it to our colleagues at Whitehall.

**Helen Eadie:** I was going to suggest that. People tend to forget that they have Westminster parliamentarians. We ought to remind them that they should work with the Westminster Parliament or the Scottish Parliament as appropriate. You are right to say that we should ensure that the petition goes to our Whitehall colleagues, because we cannot deal with the concerns as part of our work.

12:00

**The Convener:** The petition would be sent just for information.

**Jackie Baillie:** I had forgotten who Mr Russell was, but I now recollect that he lives in Lytham St Anne's. In advising him that we are closing the petition, we could suggest that the profitable route for dealing with standards would be to consult his local MP.

**The Convener:** That might be a better suggestion. Are members happy to do that?

**John Scott:** Although we are to close the petition, should we pass a copy of it to the Health Committee, because of the diverging views?

**The Convener:** It will just be for information, because of the issues that have been raised.

Are members happy with the proposal?

*Members indicated agreement.*

### Medical Negligence (PE866)

**The Convener:** PE866, by James Kelly, calls on the Scottish Parliament to consider and debate the need to establish an independent body to investigate claims of medical negligence.

At its meeting on 21 September 2005, the committee agreed to write to the General Medical Council, the Royal College of Surgeons of Edinburgh, the Royal College of Physicians of Edinburgh, the Royal College of Surgeons and Physicians of Glasgow, the British Medical Association, Citizens Advice Scotland, the Law Society of Scotland and the Minister for Health and Community Care. Responses have been received. What are members' views?

**Helen Eadie:** We could invite the minister to give us his views on all the responses, of which we have several—they include responses from Citizens Advice Scotland, the BMA, the Royal College of Surgeons of Edinburgh and the Royal College of Physicians of Edinburgh.

**The Convener:** It would be worth taking the minister's views on all those responses.



**Jackie Baillie:** I suggest that we send the responses to the petitioner now rather than wait for the minister's response. Interesting threads emerge, such as people saying that we might not need a new body and that existing powers might provide for investigations, particularly of medical negligence. The view is emerging that people—particularly lay people such as us—might not understand some of the issues that arose and that medical professionals would need to be part of any body's membership, although not exclusively. To do justice to the range of responses, I would like us to send them to the petitioner for his comments, in addition to writing to the minister.

**The Convener:** Are we happy about that?

**Members** *indicated agreement.*

**The Convener:** We will await responses from the minister and the petitioner.

### **NHS Scotland (National Specialist Services) (PE791)**

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

At its meeting on 8 September 2005, the committee agreed to write again to the Minister for Health and Community Care and to the chief medical officer. Responses have been received. Are members happy with them?

**John Scott:** I think so. On the basis of the minister's response, there is no need to take further action.

**The Convener:** Members will have noticed that several people who petitioned the Parliament—including Mr McAlorum and others—have e-mailed us. My impression from their e-mails is that they are happy with the outcome, so we can close the petition with a bit of gratitude that the hospital remains open.

**Helen Eadie:** That is another success story. All the campaigners deserve to be congratulated.

**The Convener:** Absolutely.

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

**The Convener:** PE811, which is by Mark Mulholland on behalf of Parents and Residents against Masts, calls on the Scottish Parliament to consider and debate the permitted development rights that Network Rail enjoys in respect of the

erection of 96ft-tall global system for mobile communications railway—GSM-R—communication masts in residential areas.

At its meeting on 8 September 2005, the committee agreed to write to the Minister for Communities, whose response has been circulated. Do members have views?

**Helen Eadie:** The Executive is reviewing permitted development rights, so we should put the petition in that context. As members, we are all aware of the continuing deliberations. Perhaps we should agree that no further action is required, as the matter is being given attention elsewhere.

**The Convener:** Although no further action is required, should we send the petition to the Communities Committee, as it is considering the Planning etc (Scotland) Bill? We did that with several petitions en masse; this is another that needs a bit of scrutiny.

**Jackie Baillie:** I support that proposal. I understand that discussions are taking place about permitted development rights and mobile communications masts in general, but issues with Network Rail have arisen throughout Scotland, not least in my constituency. I would very much welcome sending the petition to the Communities Committee; your recommendation is spot on, convener.

**John Scott:** I agree. That would be fair to the petitioners, who would appreciate that.

**The Convener:** The issue that the petition raises can be addressed along with other planning issues. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** That concludes our consideration of petitions. I thank members for their attendance.

*Meeting closed at 12:06.*



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