PUBLIC PETITIONS COMMITTEE

Wednesday 8 March 2006

Session 2

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PUBLIC PETITIONS COMMITTEE
5th 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:

Dr Richard Burton
Dr John Wallace Hinton
Dr Patrick McNally

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Wednesday 8 March 2006

[THE CONVENER *opened the meeting at 10:05*]

New Petitions

Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (PE934)

The Convener (Michael McMahon): Good morning and welcome to the fifth meeting of the Public Petitions Committee in 2006.

I have received apologies from Sandra White, but she is the only member who has indicated that they cannot make it to the meeting, so I do not know why we are so few in number. Perhaps everyone else has gone up to the Hub because they thought that we were meeting up there. I apologise to our petitioners that there are so few committee members to hear their petitions.

Item 1 is consideration of new petitions, the first of which is PE934, by Dr J W Hinton, on behalf of the metered parking organisation, calling on the Scottish Parliament to urge the Scottish Executive to review the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 to ensure that local authority consultation on traffic orders is full, meaningful and democratic.

Dr Hinton will make a brief statement to the committee in support of his petition. He is accompanied by Dr Richard Burton. We will hear his comments and then discuss the topic that he has brought to us.

Dr John Wallace Hinton: Dr Richard Burton will start with a few comments and then I will go through the main points.

Dr Richard Burton: Our petition is based entirely on our experience of how a particular parking order—namely the west of Glasgow city centre parking order—was implemented. We represent an action group called the metered parking organisation and we are supported by significantly more than 1,000 affected residents. We strongly support the council's aims of reducing city road congestion and pollution by commuters. Our petition is definitely not about that but is solely concerned with ensuring that councils generally observe democratic procedures. To ensure that that happens, we request some amendments to the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999. We further request that the Scottish public services ombudsman be empowered to rule on those matters.

Dr Hinton: The committee has before it a list of points—which I will run through—to help it to deal with our submission, which contains quite a lot of information.

First, we believe that councils should be required to provide full, correct and non-misleading information to the public, including all the reasons for an order. It should be unlawful for councils to mislead the public.

Secondly, councils should be required to make readily available to all affected members of the public full details of an order, including by posting that information on their websites. That is particularly relevant to disabled householders, who did not get to see the Glasgow order or any information about it—they could not have done.

Councils should be required to ensure that all local people who are affected by an order are informed individually. A council officer promised that that would happen in our case, but it did not. Councils should also provide sufficient time—six months, say—for public awareness raising, debate and decision making on orders that affect the whole community.

It should be unlawful for council officials to use the police to try to prevent the press from publishing proceedings of meetings that are held to discuss an order. At a meeting in Glasgow, council officials called the police and reporters' notes were impounded.

Councils should be required to ensure that interactions with the public regarding an order are with a named, responsible official; the public should not simply be given a room number, as happened in our case. Indeed, the room was empty and it was somewhat disconcerting for people who turned up to find nobody in it.

The public should be given honest answers to questions on an order. We have a string of examples in which we have reason to believe that the answers to our questions are not correct.

We believe that councils should be prohibited from making up their own rules in order to reject public objections, such as the withdrawal of a person's objection by default. We think that only positive requests for withdrawal should be acceptable. In the case of the Glasgow order, people received a general reply from the council to their objections, which ended with notification of a 14-day deadline from the date that the letter was sent. The letter was sent second class over a bank holiday and we know people who had only a couple of days in which to respond or who did not receive the letter until after they came back from holiday. As a consequence, their objections were withdrawn.

Opposition members should not be positively excluded from decision making on major, contentious issues. The Glasgow order was wide ranging, in that it covered a wide area and affected everybody—not just car owners—in that area. There are perhaps 40,000 or 50,000 people within the boundary—I am not sure. The first council meeting on the issue was a sub-committee meeting at which opposition councillors were prevented from commenting.

Councils should be held to account if they fail to implement any aspect of an order that is supported by a council vote. Councils should also be prohibited from taking actions that pre-empt democratic, council committee decisions—for example, by arranging for the purchase and delivery of equipment uniquely required for a scheme. We obtained information under the freedom of information system that special black meters were ordered in February 2005, although the relevant council meetings were not held until late summer. The special black meters, which are for use in conservation areas, were delivered two months before the council meeting that made the relevant decision.

We think that roads and lighting committees should be required to consider social issues and not just traffic issues when proposing an order or amendments to an order. For example, the committees should abide by regulations arising from disability legislation. We are concerned that the senior council officials who deal with traffic and with whom we spoke are of the opinion that they should deal only with traffic and car counts. They stated that social factors were not their concern and that they could not make exceptions for people such as disabled people's carers.

We hope that this is a start and that our suggested provisions can apply to all council orders eventually.

My final statement is included in the letter that I sent to the clerk. We believe that the evidence that we have provided shows that Glasgow City Council holds the electorate and opposition councillors in contempt. We think that the behaviours that we have reported erode public confidence in the democratic political process and contribute to the general public's political apathy, with consequent low polling in local elections in Glasgow. A browbeaten public with low morale is an unhealthy one.

We look forward to the Public Petitions Committee's deliberations on our petition.

The Convener: I will start with a couple of questions on the points that you made, before we move on to other committee members. You told the committee that journalists were prevented from participating in a meeting and that their notes were taken from them by the police. I would have thought that the National Union of Journalists would have taken a dim view of any breaches of press freedom. Are you aware of any action being taken by the press in relation to their being obstructed when carrying out their reporting responsibilities?

Dr Hinton: The only action that I am aware of is that the reporters concerned went to the police the following day and got back their notes.

The Convener: You made reference to the local authority's duty to comply with disability legislation. If a person thinks that someone is in breach of disability legislation, they can pursue a complaint through the Disability Rights Commission.

10:15

Dr Hinton: That is true. I am aware that an individual must pursue an action. I think that legislation that is coming into force will place a duty on councils to ensure that people who are disabled or blind, for example, are properly informed about proposed council orders. In the case that I am talking about, I am afraid that that did not happen. Housebound disabled people had no chance of seeing notices; often, notices were not in place anyway. The main notices about the order were in the council offices and in three other locations—halls and libraries—in the proposed parking zone. Notices often went missing and were not replaced. The full information was available only in such locations, although it included matters that affected housebound disabled people, such as restrictions on visitor permits and the fact that people would not be able to obtain more than 40 visitor permits without obtaining special permission. The implication for housebound disabled people was that carers might have to pay £300 or £400 in parking fees during the course of a year.

The Convener: I appreciate that such decisions might have implications for disabled people. However, if a disabled person objects to the way in which changes are made in their area or to the impact of such changes and thinks that there is a breach of the legislation, they have a means of redress. I want to ascertain whether that means of redress has been pursued.

You said that councils should not take action that pre-empts democratic council committee decisions. One of the first actions of the Scottish Parliament was to pass the Ethical Standards in Public Life etc (Scotland) Act 2000, which set out a code of conduct for councillors. There is also the Standards Commission for Scotland. Has your complaint been pursued through such channels?

Dr Hinton: Are you referring to the Scottish public services ombudsman?

The Convener: No, I am talking about the Standards Commission for Scotland.

Dr Hinton: We do not know about that body.

John Scott (Ayr) (Con): You suggested that a council is misleading the public. Is the problem Scotland-wide? Given that it is probably not, why would Glasgow City Council mislead the public? What benefit would that bring to the council?

Dr Hinton: Do you want to hear examples that we identified?

John Scott: Yes.

Dr Hinton: First, there is a financial benefit. Dr Burton obtained the minutes of a meeting of a sub-committee of the roads and lighting committee, which were on a website. The information from the meeting was not made available to the public, but it was clearly stated that the objective of the scheme was to make £302,000 per annum for a city-wide lighting scheme. That information was not given to the public at all and we believe that the information on the public notices that were put up—

Dr Burton: In one area, the justification for the scheme was not the same as it was in other areas. The scheme was divided up. On all the notices, the justification was to do with relieving parking problems and so on, but in one area the justification was that the scheme would prevent commuters from homing in on a free parking area, which is what has been happening. That was not stated on the notices, but it has been stated at various times in other contexts. The residents of that particular area might have been more in favour of the scheme—I do not know whether that is the case—but the wrong justification for it was given.

Dr Hinton: The notices indicated that there was substantial public support for parking restrictions, but in five out of the nine areas, fewer than 10 letters complaining about parking problems were sent to the council—we do not know over what time period. The notices also claimed that the emergency services had complained about access problems. Is that right?

Dr Burton: I think so.

Dr Hinton: I think that committee members have a copy of the document, which states:

"Why are the Council proposing to introduce the controls?

Parking controls are being proposed in response to requests from residents and businesses in these areas who currently experience difficulties in finding a parking space. Concerns have also been expressed by the Emergency Services and others about inconsiderate and obstructive parking that restricts access and adversely affects safety and access for residents and other road users."

Someone made an inquiry of the fire service and it said that it had not been contacted. We are concerned that the case that is put in the document is based on very little evidence and is somewhat misleading.

John Scott: It could have been the case that the local councillor took the views of his constituents by word of mouth or through surveys that you might not be aware of. Have you factored that into your calculations?

Dr Hinton: Some complaints might have been made to councillors in that way, but we have no evidence that any such complaints were made to community councillors.

Jackie Baillie (Dumbarton) (Lab): Let me play devil's advocate for a minute. Dr Hinton, you come from Milton of Campsie, so I take it that you commute.

Dr Hinton: That is true.

Jackie Baillie: So the parking situation affects you on a work basis, rather than as a resident.

Dr Hinton: Yes, but I am retired now. I go into Glasgow only infrequently and I use the bus when I can.

Jackie Baillie: I have no doubt about that, but I am conscious that residents' views about parking outside their homes may be different to those of someone who commutes into an area.

I recognise that you support the principle of preventing city road congestion that is caused by commuters and the consequent pollution. It is important to put that on the record.

My two questions are about what it is reasonable to expect any organisation to do, whether that organisation is Glasgow City Council or any other. You say that every householder should be advised of the situation individually. With the best will in the world, such an exercise would be affected by people moving, for example. It would be expensive to notify all of west Glasgow of anything that was likely to happen. Is advertising in the press and on lampposts—as the council has—sufficient, in addition to discussion with local groups such as community councils and tenants and residents associations? It is clear that you were aware of what was going on, so some of the publicity must have worked.

Point 4 of your submission says that councils should allow "sufficient time" for people to be informed of and to debate the issues. You suggest six months, which is a long period. If people do not know about a consultation or do not wish to become engaged, whether the period is two or six months will not matter, because the reality is that they will not be part of the process. Given that, is six months a reasonable suggestion?

Dr Hinton: I suggested six months off the top of my head, but our experience is that people probably take six months to become organised. Some organisations are already established—for doctors and tradespeople, for example, but not for isolated individuals. It took us six months to get the metered parking organisation together.

As for the cost of an exercise to inform people, if a proposal is as major as the council's proposal, which affects everybody, I do not see why it should not be included in the expensive "Glasgow" magazine that the city council sends round every couple of months, but it was not. There are ways to inform everybody without adding to expense.

We are very concerned about the inadequacy of the public notices on lampposts and the use of *The Herald*, when another newspaper probably covers the area better and is more popular than *The Herald*. The council did the minimum that it could by way of public notices.

Dr Burton: The simple answer is that the notification did not work. I heard of the consultation from a neighbour on the pavement just before the consultation closed. Subsequently, we have found that a very large number of people did not know about it—indeed, they still did not know about it a long time after the consultation closed. When the action group stopped people in the streets to discuss the matter, it was clear that many had not heard of it.

Dr Hinton: That is a fact. We undertook surveys. In the week before the deadline, 90 per cent of people did not know about the consultation, so something went wrong.

Jackie Baillie: I accept what you say about the metered parking organisation, but existing community councils and tenants and residents associations might have been useful in providing information to people. Your comments are helpful. The point is not about guaranteeing that all local people are advised individually, as use of the council newspaper or other methods might be just as acceptable.

Mr Charlie Gordon (Glasgow Cathcart) (Lab): Dr Hinton, roughly how many of the points in your opening statement relate to your desire to change how such matters are conducted throughout Scotland and how many relate to what you see as faults by Glasgow City Council in relation to the order to which you referred? You can give me a broad answer.

10:30

Dr Hinton: In general, we are concerned about everything to do with notification. We are particularly concerned about the meaning of the word "consultation". The matter applies throughout the whole of—

Mr Gordon: That is interesting. When I was a shop steward, I was taught to try to turn every item of consultation into an item of negotiation. Of course, the management thought otherwise. What do you understand the word "consultation" to mean?

Dr Hinton: We understand it to mean the giving of information in the first place and then the receiving and discussion of information. However, that did not happen. Glasgow City Council was pushing the scheme, but when officials attended meetings they made it clear that they were there simply to inform people of what was intended. They were not prepared to listen or to consider any changes to the scheme.

Mr Gordon: I presume, however, that those council officials relayed the views of the public to the councillors who ultimately made the decision.

Dr Hinton: They made it clear that that was not their brief. A couple of the meetings were called by local organisations. I went to one of them and we were told that we would be informed individually, but we were not. The officials made it clear that they were there only to give information.

Mr Gordon: On the key point—the way in which the consultation was conducted—you are saying not only that the national regulations are inadequate but that Glasgow City Council was at fault in administering the arrangements.

Dr Hinton: Yes. We believe that to be the case.

Mr Gordon: Is it fair to say that, in the case that you use as an example, the council stated that one of its prime objectives was to deal with the perceived problem of commuter parking? I know the west end of Glasgow fairly well because I was brought up not far away from the area. As I understand it, the University of Glasgow and the Western infirmary generate a lot of commuter car trips and a lot of people park in adjacent residential streets, to the inconvenience of residents. Did the council say that it was trying to address that problem?

Dr Hinton: Yes. We go along with that. Now, the streets are empty during the day because people who live there commute out. On some streets, there are no cars or only one or two cars.

Mr Gordon: Do you think that that is a bad thing or a good thing?

Dr Hinton: It is a good thing, but there is a problem for small local businesses, many of which have made representations to the council but have been ignored. Doctors and people who work in small businesses, including post offices, should not have to run out to their cars every three hours to—

Mr Gordon: Do you think that a shop owner in the west end of Glasgow should have the right to park outside on the public road all day for nothing?

Dr Hinton: Yes, if they provide an essential service for the local community. We are only concerned about the local community, but I do not think—

Mr Gordon: You are not a local resident. Were you a commuter parker? Is that how you became involved in the issue?

Dr Hinton: I have a small flat in the area, which I use infrequently. Commuter parking is not something that bothers me too much.

Mr Gordon: Earlier, you alleged that opposition councillors were excluded from some of the meetings. That is a particularly serious allegation, in my view. The convener mentioned the Standards Commission for Scotland. I am sure that you are aware that, when councillors make decisions on quasi-judicial matters, such as planning or licensing, they are acting as individuals and it is illegal for a party whip to be applied. In your view, is there a clear implication that a party whip was operating in the case to which you refer?

Dr Hinton: The first meeting—there were a series of meetings on the different areas within the zone—was a sub-committee meeting at which no opposition members were represented.

Mr Gordon: Which sub-committee was that?

Dr Hinton: It was a sub-committee of the roads and lighting committee. By that means, the council was able to get approval of a couple of the areas in the zone without any opposition. Thereafter, complaints were made by two councillors.

Mr Gordon: Had the two opposition councillors already spoken out on the matter?

Dr Hinton: Yes, they spoke out against it at the council meeting.

Mr Gordon: That might explain the difficulty. Councillors who speak out on matters that are to be determined quasi-judicially exclude themselves from the decision-making process because they could be found to have prejudged the issues. If a councillor has spoken out on a planning application, licensing application or traffic order before the decision has been taken, it would be unethical for that councillor to take part in the final decision as they have prejudged the quasi-judicial process.

Dr Burton: I think that Dr Hinton may have got that wrong. The two councillors spoke out against the proposal at subsequent meetings, rather than before the sub-committee meeting.

Mr Gordon: Is it your view that there ought to be party-political balance on council sub-committees that deal with quasi-judicial matters?

Dr Burton: No. Councillors should be able to oppose anything regardless of the party to which they belong. People who have something to say should not be excluded if they are on the general committee.

The Convener: The rules in the code of conduct specify that a councillor who speaks out on a matter of licensing or planning is automatically debarred from voting on that matter. The code of conduct is very strict on that point, as I told Dr Hinton after his opening statement. If the matter concerns a breach of the code of conduct, recourse can be had to the Standards Commission for Scotland. That might be an avenue through which the complaint could be pursued.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning. As someone who has been constantly bothered by restrictions on parking, I have a degree of sympathy with the petitioners on the situation that they are trying to overcome.

The complaint in the papers before us seems to be that the council did not provide enough information and allowed insufficient time for the consultation to let the people who would be affected by the proposal have their say. However, according to our information, Glasgow City Council advertised the proposal in the local press—that is, *The Herald*—for a period of six weeks and received 1,800 responses to the consultation. The council also set up a website. There seems to be plenty of evidence that the scheme was effectively advertised and in accordance with the regulations.

Dr Hinton: The website did not contain all the information that it could and should have contained, such as information on the restrictions on visitor permits. A lot of critical information was not available on the website and could be obtained only from the three halls that were mentioned and from the council's offices in the city centre.

The advertising was done by those of us who were aware of what was going on. We put notices up around the area and informed people as much as possible. The proposal was not advertised every day in *The Herald* over six weeks but only once.

John Farquhar Munro: The council also posted notices at locations within the locality.

Dr Hinton: Notices were put up, but the legislation requires that they should be displayed at the end of each affected road. We know that that was not the case. We have evidence of that from a number of people.

John Farquhar Munro: I note that there were nine areas in which parking restrictions were proposed, of which eight were approved and one was not. Why was that? Was it because of the responses that the council received, or was there some other reason for not implementing restrictions in the ninth area?

Dr Hinton: We know—we have had letters from a manager of a sheltered home that say so—that there are many sheltered homes in the area. Most people in that area are housebound and disabled. Before the crucial meeting, the manager of a home sent a letter to the council in which he was vehement that neither he nor anyone in the home had been informed about the proposal. We understood—informally—that some legal action was going to be taken.

The director of land services stated in the newspaper that dropping the ninth area would cause chaos in that area, and it has. The displacement problem has created absolute chaos all around the area; people in that area are the worst affected by the appalling road congestion, which has even stopped essential service vehicles. In one example, an ambulance was blocked in for three hours. The people in that area are on the periphery and were not consulted about the scheme.

John Farquhar Munro: Are you suggesting that, apart from applying to traffic orders and parking restrictions, the action that you seek in your petition should apply to the wider business of local authorities?

Dr Hinton: We hope that it will apply to all traffic orders by all local authorities.

The Convener: I ask members for recommendations on how we can make progress on the petition. It would be normal practice to write to the Executive and the Convention of Scottish Local Authorities for a general overview of the situation, given that the petition is concerned with the wider issue of local authority regulations.

Jackie Baillie: Because specific points have been made about Glasgow City Council, I suggest that the council should be given an opportunity to present its version of events to the committee.

The Convener: Thank you. Are there any other points?

Dr Hinton: In answer to Jackie Baillie's point, all the points that we have raised here today have been put to Glasgow City Council. Members have all the documentation and the correspondence with the council, including its replies to our points and our rebuttals, to which the council has not responded.

The Convener: The council might respond to the Public Petitions Committee of the Scottish Parliament. We will give it the opportunity to do that. We will write to the Scottish Executive, COSLA and Glasgow City Council and we will let you know of the outcome from the responses that we receive. We will take the issue further when we have seen those responses.

Dr Hinton: Thank you.

Public Health Services (Consultation) (PE938)

The Convener: Our next petition, by Dr Patrick McNally, calls on the Scottish Parliament to urge the Scottish Executive to ensure that a clear, transparent and meaningful public consultation takes place when changes are proposed to public health services. Dr McNally will make a statement in support of his petition and the committee will then discuss the issue.

10:45

Dr Patrick McNally: I thank you for inviting me to address the committee. I take that as an indication that you see the issue that my petition addresses as an important one that has direct implications for us all.

I am here as a user of the national health service. The fact that I happen to be a retired orthopaedic surgeon and surgical manager and, therefore, have a bit of insider knowledge, is largely irrelevant. My reason for presenting this petition is that I am a patient. On behalf of many patients, I am here to say that this consultation process is clearly not working. I ask that it be re-examined and fixed so that we can maybe—and I emphasise the word "maybe"—begin to trust it again.

Real consultation involves two-way communication. It needs truth, transparency and a willingness on the part of both sides to listen to the other party and build up an atmosphere of trust. If there is a perception that health boards are talking to but not listening to the public and if there is what I can best describe as a deficit of truth or a failure of transparency, trust goes out of the window. That is bad for us all, whether we are patients, doctors, health board members or politicians.

To highlight some of the problems, I will give examples from the two on-going health service consultations in Lanarkshire and Ayrshire. In both areas, it is intended that elective surgery will be carried out at the planned care hospital and that emergency surgery will be carried out in emergency hospitals. Although the documents for both areas talk in moderate detail about the time involved in reaching an emergency centre, it is not made clear enough that, for example, elective surgical inpatients might have to travel from, say, Largs to Ayr or from Eaglesham to Monklands.

In Lanarkshire, there is a clear anomaly in the proposals. A great deal of emphasis is given in the overall document to the centralising of resources to attract and retain staff and improve quality. That is a good idea. However, the renal services are to be split, with dialysis in the planned care hospital and renal medicine in one of the acute hospitals. Because I have family in Lanarkshire, I have heard

people asking when dialysis will be moved. Will it be six months or a year after the consultation is over?

Will there be enough capacity in the acute hospitals in each area to take up the acute admission workload that will be transferred from Ayr and Monklands? I ask that because I have a letter from the director of strategic planning of Ayrshire and Arran health board, which is the official response to my response to the public consultation process, and which confirms that the board had not yet completed the computer modelling of whether Crosshouse would cope with that workload. The letter is dated after the close of the public consultation; I would not suggest that there is much transparency in that. A colleague is asking the same question in Lanarkshire but has not yet had a reply. However, the consultation process there started much more recently.

In Ayrshire, the consultation document emphasises the benefits of a new cardiology centre in Crosshouse that would serve the population of Ayrshire and Arran. However, it completely fails to mention that such a service was recently developed in the Ayr hospital.

Patients know, if only in a general sense, what services exist. When a consultation paper—by clear inference—appears to deny the existence of a service that they know, from their experience and that of their family and friends, exists and is working, they feel misled. That means that the process is devalued and that the patients cannot trust it.

If someone who is trying to sell you a car says, "Look at the paintwork. Isn't the upholstery wonderful? I'll give you a new set of seat covers", but ignores the fact that he has removed the engine and the wheels, would you buy it? That is a fair analogy of how consultation on service change is being undertaken at present. There is an emphasis on changes to accident and emergency services and a deficit of truth—a lack of information, in other words—about the consequences for other services.

The consultation exercises in Ayrshire and Lanarkshire are examples not of consultation, but of the presentation of a fait accompli. Although the boards have not yet decided—I use that word in its precise, legal form—all that that means is that the formal board decision has not yet been made. Speaking to people in Ayrshire, where the consultation process has closed, and Lanarkshire, where it is still in progress, I can tell that it is clear to the public that what will be voted on—on a yes or no basis—is the preferred option.

Current Scottish Executive guidance calls for services to be

"responsive … to the preferences of the public at large"

and insists on boards

"finding out what patients and communities want; and consulting them over proposals for change."

What is happening today is not consultation; it is what the guidance clearly defines as "not acceptable". In paragraph 18 of the guidance, it is called "'end process' consultation". That is widely recognised to be the case. It is underlined in the Kerr report, which called for consultation to be at the front end of service change rather than—as is happening—at the last step. That recognition is reiterated in the minister's response to that report, in which he speaks of the need for NHS boards to engage in genuine dialogue. There are other issues, but I will try to keep to time.

I will try to be positive and suggest how the process could be strengthened and improved. Transparency needs what I would call a truth-and-consequences approach. The basic starting point for truth is to identify for the public all the services in each hospital and to explain what they deliver. That will have the benefit that the public will recognise elements from their own experience and, therefore, be more likely to trust the NHS. Next, the proposals should be explained—what will go where and what that means in terms of travelling for both emergency and elective surgery. A lot of emotion is expressed about emergency surgery, while elective surgery and the consequences for it tend to get hidden. For example, all patients from Lanarkshire who require breast surgery will need to travel to Monklands. Today is international women's day—a good day on which to mention that. Where are choice and local services? That is an illustration of the consequences aspect.

As the committee will know, the basic guidance for public consultation dates from way back in 1975, although there was a draft update in May 2002. It has good elements, which are aimed at strengthening the voice of the public, but those elements are clearly being ignored by health boards. I ask the committee to ask the Executive to revisit that guidance, to strengthen it and to increase its emphasis on the need to listen to the public; to eliminate the deficit of truth that so often exists; and to deliver transparency by implementing a clear policy of truth and consequences that everyone can understand.

Thank you for your time and patience.

The Convener: Thanks very much, Dr McNally. I open the discussion to members.

Jackie Baillie: I found that presentation encouraging, not least because Dr McNally mentioned international women's day.

Having been through what I can describe only as the pain of NHS Argyll and Clyde's

consultation, I want to pose a few questions to you. I am not convinced that it is the process that is the problem, although I agree absolutely that we need to do things much earlier and be much more open about what the issues are, rather than leave that to the end of the process. However, I wonder whether the problem is that we arrive at conclusions that seem to indicate that we have not, in any way, considered what the public have said to the health boards. The health boards tend to tick boxes to say that they have produced a glossy presentation and involved a number of people, but they then stick to the same outcome. You have talked a lot about process, but I wonder whether this is about outcomes and conclusions. That is my first question.

Secondly, although I acknowledge that you are a patient, you also have experience of being in the medical profession. I am told constantly that there is a problem with the royal colleges. The royal colleges are probably the most powerful trade union that I have come across. If they are pushing an agenda of centralising services—maybe for a variety of valid reasons—I would be interested in what you think their role is in all of this and what the role of the medical profession is. One or two of your colleagues perhaps suffer from the same deficit of truth that you have described.

Dr McNally: I would not disagree that, occasionally, deficits of truth in public presentation exist on all sides.

I deliberately followed the guidance of the Public Petitions Committee in talking about structure, organisation and process, as I wanted the issue to be brought forward if at all possible. I find it interesting that you talk about the strongest trade union being the royal colleges. I smile because I am a former council member of the Royal College of Physicians and Surgeons of Glasgow and I recognise that you are absolutely right. I am also a former deputy chairman of the British Medical Association's Scottish consultants committee, which is the other trade union. I am a shop steward on both sides, if you like—for both the quality aspect and the financial contracts aspect. I was one of the first, as it happens. Putting it in good old Scottish terms, I know the score on both sides of the house.

Let us get a couple of things clear. The royal colleges have an agenda, which is quality and the maintenance of quality standards. The administrators use quality and the maintenance of quality standards a bit like doctors would use what we call shroud waving. For example, we had a problem in Ayrshire with the royal college's paediatricians centralising paediatric services. When I came across and considered the issue, my problem was that the process in Ayrshire was bad and that people were making a hash of it. The quality argument was rock solid, which was unfortunate for local facilities and access. Not enough children were going through the paediatric units in the two places to maintain junior doctors' exposure to clinical experience so that they could be properly trained. One centre was therefore required.

I am sure that members have read the Kerr report in great detail. That report discusses—as the Lanarkshire consultation document does, to be fair—quality issues in terms of throughput and numbers of patients. Wait a minute, though. When very complex matters are involved, there will be a significant improvement in quality as a result of centralising. Quality improvement happens quickly when patients with hernias, breast lumps or anything else that I would call routine, but that ordinary patients would rightly regard as major, are dealt with. The average surgeon who regularly deals with breast lumps or hernias or regularly replaces hips or joints will become adequately skilled very quickly. When I use the word "adequately", I mean very well skilled; I am using the word in the United Kingdom sense and am talking about a high standard. Therefore, there is no need for such services to be centralised. I say that with my Royal College of Physicians and Surgeons of Glasgow quality hat on; the current president of that college, Graham Teasdale, would not disagree with me. Neurosurgery, complex cardiac surgery and complex paediatric surgery should be centralised, but the bread-and-butter routine stuff should not. However, policy is a different discussion that I did not start.

Jackie Baillie: In the context of the truth deficit that you have described, all that I will say is that I look forward to the royal colleges having such an approach in the future.

Mr Gordon: Dr McNally, you will know that there have been similar controversies on similar issues for many years in the city of Glasgow. It seems to me that your central point is to do with how consultations are currently being handled in Ayrshire and Lanarkshire and that you are saying that the boards in those areas are not sticking to the guidelines.

Dr McNally: That is exactly my point.

Mr Gordon: That is a serious allegation. What about the Scottish health council, which is the consumer's or patient's champion? There used to be a network of local health councils, but there is now one health council for the whole of Scotland. Is it doing its job properly?

Dr McNally: I have spoken to the Scottish health council and must be careful about what I say. The information that I have received from it is absolutely clear. It is monitoring all aspects of the consultation process in Ayrshire—it will obviously

do the same in Lanarkshire—and is preparing a report, which it will send to the minister. I cannot say much more than that.

Mr Gordon: Will the Scottish health council wait until the end of the consultation before it sends a report to the minister?

Dr McNally: I have asked that question, but have not received an answer to it yet.

Mr Gordon: You will understand why I asked the question. If the patients' representative body thinks that the procedure is flawed and that national guidelines are not being adhered to, there might be a case for it blowing the whistle sooner rather than later.

Dr McNally: I made the Scottish health council aware that I was coming to today's meeting. After the meeting, I will give it a copy of what I have presented to the committee, which it is interested in receiving. I have also given it a copy of the letter from the director of planning, to which I referred, and my professional critique in response to the health board consultation.

11:00

Helen Eadie (Dunfermline East) (Lab): How are patient groups involved in consultations in your area?

Dr McNally: There are two levels of involvement. The first level is the public meetings process. Last week in the *Ayrshire Post*, Ayrshire and Arran NHS Board responded to a comment by an MSP—not anyone here—who questioned the cost of consultation, because it involves so many meetings. I wrote back, too. The director of planning's response said that many public meetings should be held so that the board could talk to people and that the money was well spent. I could not agree more. However, the director of planning went on to say that the board went beyond Scottish Executive guidance and used community guidance—I do not have the letter with me, but she quoted something that bore no relation whatever to health or the rules on health consultation.

The second level involves the setting up of a working group of members of the public. In my area the group's members were chosen from a variety of voluntary organisations to be part of the consultation process, which is right and proper. I am retired, but patients still stop me in the street and say, "Hi Doc, how's it going?" People ask me what is going on and I hear unsolicited comments from anyone and everyone—a proper vox pop—so I know that there is a perception that the small group that works with the board does as the board tells it to do. I do not necessarily believe that, but I discovered that in Ayrshire the board consistently gave the working group the message, "This is the only way forward, because we won't be able to get enough doctors". That gives me grave cause for concern.

At the public consultations that I attended, the spin syndrome was in evidence. What I found most amusing was that an accident and emergency consultant on the podium would be contradicted by another A and E consultant who had come along to the meeting, or would be shouted down by his own staff because he was talking rubbish. Indeed, what the consultant on the podium said was proven not to be strictly factually correct—if I can put it that way. I was alarmed by the fact that medical manpower was only occasionally alluded to during the public consultation, although it is a real issue that we cannot escape. However, that issue was used to hammer every objection from the working group, which was told, "This is the only way, because we'll never have enough doctors." What can an ordinary member of the public, who has no medical knowledge but has worked with Age Concern Scotland or a drug rehabilitation project and is highly involved in the community, say in response to such professional input from the board?

Helen Eadie: Have you asked the Scottish health council for examples of best practice on consultation?

Dr McNally: I have not asked that specific question, but I have asked about how the process is viewed in relation to the current guidance. I have heard unofficial rather than official comments, but I think that it is fair to say that the council is not enthusiastic about how consultation is currently carried out.

Helen Eadie: Have you been offered examples of best practice from other parts of Scotland?

Dr McNally: No, but I would not expect the Scottish health council to do that, because it is still finding its feet. The regional managers were put in place only in the past five or six months. The organisation is relatively new and is still receiving feedback. There are two on-going consultations—the Argyll and Clyde consultation closed before the new Scottish health council took up its powers—so I do not know that it has had too many examples of best practice.

Helen Eadie: I am sorry to press the point, but the thrust of your argument is the lack of good consultation. I am a member of the Health Committee, so I know a lot about the issues—as do other members of this committee—and I recognise that consultation has been a big issue in Scotland. However, over time, consultation processes have improved in different parts of Scotland. Setting aside the fact that the Scottish

health council is a new body, there are people within the professional network who know where examples of best practice exist. Do you accept that you and your colleagues could get examples of best practice and compare them with what is happening? I am trying to help you to find a way forward that will benefit everyone, because that is fundamental.

When Greater Glasgow Health Board's consultation process was found to be inadequate, the committee had in front of it representatives of the GGHB, including the chairman, who answered for the inadequate consultation. From that moment on, there was a big change in consultation processes. One of the first things that Susan Deacon did when she became Minister for Health and Community Care was to change the guidelines, which had not been changed since 1948, although more always needs to be done.

I ask you again about best practice elsewhere in Scotland.

Dr McNally: I have no information on that from the Scottish health council and it has not given me such information, but I am happy to go and get it and pass it on to those who are involved.

If you wish, I will be firm and say that the current Ayrshire consultation is fundamentally and fatally flawed because of the way in which it has been done. If we can find best practice, I would be very happy if Ayrshire and Arran NHS Board reran the consultation following that practice.

John Scott: With respect to Helen Eadie, it is not up to Dr McNally to establish best practice; it should be up to NHS Ayrshire and Arran to do that and follow that best practice.

Helen Eadie: We are trying to help people to get the best solutions and outcomes for their area.

The Convener: It might be best if we direct our points to the petitioner rather than have a debate amongst ourselves.

Helen Eadie: I beg your pardon, convener.

John Scott: I thank you for presenting your petition, Dr McNally, because you have eloquently expressed the mood in Ayrshire. The feeling is that the consultation is flawed because the review of unscheduled care and emergency services is taking place separately from the review of elective surgery. The advice that I am given is that those two reviews should take place at the same time because, if they take place at different times, the first will drive the second.

Will you comment on the fact that the consultation appears to be flawed also in that the options that consultees were given did not include the one that they wanted, namely the option to keep both accident and emergency units open, with the three community casualty units in addition? That option has not been on offer to the people of Ayrshire, and 55,000 of them have signed a petition demanding that it should be on offer. Is the point that they are making a fair one?

Dr McNally: Yes. The fact that the status quo is not on offer upsets many people in Lanarkshire as well. If a health board says that the status quo is not an option, it must not only justify that clearly, but take the people with it. It must bring them on board by taking little steps if necessary. If a health board can produce glossy documents, such as the consultation document for Lanarkshire, which I have here—the Ayrshire one is even glossier—it can also produce simple, easy-to-read documents.

In addition, the current guidance on consultation—which members will have in their briefing packs—allows for a two-stage process, but I have not heard of that happening. In practical terms, the first stage of the process should be about listening, taking evidence and preparing matters and the next stage should involve a second consultation on what the health board, having listened to people and taken their views on board, proposes in its modified plans. I am not aware that any health board has used that two-stage process, but it is suggested in the Scottish Executive guidance. However, the guidance does not seem to be of interest to health boards.

On the issue of elective surgery, as Mr Scott mentioned and as I pointed out in my opening statement, it is not possible to consider closing an accident and emergency unit without taking into account the wider consequences. If a hospital closes its A and E unit and closes to acute admissions, it also closes to acute medicine and acute surgery. The proposal is that patients with strokes, heart attacks, perforated ulcers and appendix problems should all go to one hospital and that the elective hospital will not have an intensive care unit. However, the emergency hospital with the intensive care unit will also need to be able to offer elective surgery because complicated surgery for which the patient is likely to need intensive care—such as vascular surgery for an aortic aneurysm, which is complicated but routine for a vascular surgeon—can require some elective surgery, which will need to be factored in.

It is not possible in any way, shape or form to separate in any honest way those two issues. In my professional view—both as a clinical professional and, with my management hat on, as a managerial professional—it is not possible to separate the two. Both issues need to be clearly laid out and explained to people. People have not been properly informed.

John Scott: I think that the mood in Ayrshire is partly due to the fact that Ayrshire and Arran NHS Board seems to have made up its mind. As far as I

am aware, no health board official at any of the 19 or so public meetings has ever accepted that a member of the public has made a good point that should be considered. The whole tenor of the discussion has involved argument and constant rebuttal, as if it were impossible that anyone else might have thought of something that the health board has not considered. At any rate, that is how the consultation appears. Has that constant rebuttal perhaps set the mood music and given people to believe that the board's mind is made up?

Dr McNally: I agree that that is an accurate picture of the mood that exists in Ayrshire. Indeed, let me provide two quotes from the board's medical director to support that view.

At a public meeting in Cumnock, a patient asked, "Given that you want all these small accident and minor injury units around the place so that you can close Ayr hospital's A and E unit and centralise things at Crosshouse, have you thought about trialling the small units for a couple of years before deciding on whether to centralise the two A and E units at one hospital?" The medical director's response was, "No, we had not thought of that." That was the end of the story. He did not say, "That is a good idea, which we will take on board."

My second quote is the medical director's response to a question on a slightly technical issue concerning the assessment unit that will be attached to the main hospital at Crosshouse. The proposal is that emergency admissions to the assessment unit will have a maximum stay of 24, 48 or 72 hours before they are sent to the appropriate unit. The medical director said, "I will not be challenged on the process. I might be challenged on the numbers." That is a direct quote. I am not the only one to whom that response does not sound like consultation.

John Scott: Finally, I want to take up Jackie Baillie's point about the Royal College of Physicians. I ask Dr McNally for his professional view on the training of doctors in Scotland. It has been suggested to me that this issue is essentially to do with workforce planning. I am certainly aware that many young doctors need to leave the country for their training because they cannot find training places in hospitals here. Although that is an issue, the A and E unit of a good district general hospital should not be closed simply because doctors are not available due to workforce planning issues. Do you agree? Will you talk to us about that, given that you will know more about the matter than I do?

11:15

Dr McNally: For my sins, many years ago, I was on the central manpower committees—both for the UK and for Scotland—and the Advisory Committee on Medical Establishment (Scotland). Neither John Scott nor I has enough time to go over all of that, but—

John Scott: I will make time.

Dr McNally: I am sorry; I said that as a joke. It would open a huge can of worms.

Let us be clear on the matter. Doctors' training and hours are big and complicated issues that require a lot of discussion. There is also the issue of the health service's delivery of services to patients. At the moment, there is probably a discontinuity in delivery, although I would like to think that it is a temporary one.

The view that I am about to express is a purely personal one. Thirty to 35 years ago, this country imported a number of doctors because of the serious problem of a shortage of medical manpower. At the time, we dealt well with the problem. Currently, a fair number of doctors are available in other countries in Europe and they would welcome the opportunity to come to the UK for training. I am retired. As I have been out of the business for a bit, I am not sure whether the example that I am about to use is still current, but a significant number of German doctors used to come to this country on a regular basis. Because of blockages in their training, they were delighted to come to the UK for a couple of years and add to their experience. They gave excellent service to the NHS.

As I said, two issues are involved in the delivery of care. I would like you, the ladies and gentlemen of the Parliament who take the decisions on our behalf, to look at the two issues as if you were wearing bifocals. You need to put the two issues together but do not let one smother the other. I am afraid that that is what is happening at the moment. If I say any more on manpower, I will start to bore you.

John Farquhar Munro: Good morning. I have listened with great interest to what you said, Dr McNally. As someone who has been involved in attempts to prevent closures and alterations to services in the Highlands, I appreciate the difficulties that people encounter in that respect. Their greatest difficulty is in trying to convince the health board that they have the right to receive care in their own locality, if at all possible.

Having attended many such meetings, I too feel disadvantaged when I am presented with the evidence that the representatives of the health board or medical profession present; they talk in a vocabulary that is alien to the general public. I was glad therefore to hear you say that the glossy brochures that you showed us were simple to understand. However, although they may be simple to understand for someone such as you, Dr McNally, who has a medical background, they

may not be so easy for others to digest. I have a simple question: how, at such public meetings, can we get the medical profession and health board representatives to talk in language that is easily understood by the general public?

Dr McNally: I could not agree more. If you want me to come along to your meetings and translate for you, I will do so—I am retired, so I am available. You highlight a very valid point. When I was an orthopaedic surgeon, my practice was reasonably successful because I believed firmly in communication with my patients. I would talk to the patient in their language and at their level. In saying that, I do not mean to make a demeaning comment. I simply adjusted my language to a level that the patient could understand; I explained things in their language. That is something that a person learns how to do and at which they steadily get better. Communicating well is not rocket science; it is a social skill. There is no reason on God's earth why health boards cannot do the same, either at management or at medical level. I can think of no reason why they do not do so, other than unwillingness.

John Farquhar Munro: Yes. If health boards are losing the argument, they usually argue in their defence that the direction or instruction comes from the Royal College of Physicians or the Royal College of Surgeons. Usually, they cite a professional body that seems to know more on the subject than the person in the street does. However, that is not always the case.

Dr McNally: That is exactly so. People do not always get the entire truth. That is why I keep returning to the issue of transparency. It is a bit like the current advert for a particular yoghurt, which now has "added omega 3"—we know that omega 3 is good for us, but what the heck does it have to do with that yoghurt? It is hyperbole on top of jargon—anything to confuse people and sell them something. We need transparency.

The Convener: Before the committee discusses the petition, I have a question about the Lanarkshire consultation, which is important from my point of view. You said that you had no examples of the use of the two-stage consultation process to which the guidance refers. According to Lanarkshire NHS Board, its consultation process was carried out under the picture of health programme and involved representatives of community councils, public bodies and a range of organisations. They arrived at the decision that is now being consulted on. Is that process sufficient to meet the guidelines? Were you aware that it took place? I have spoken to people from my local community councils who took part in the decision that is now out to public consultation.

Dr McNally: I turn that straight back to you, because it is for you as politicians to decide whether you think that such a process is enough.

According to the current guidance, which was revised in 2002, there should be a facility for a formal public consultation at stage 1, as opposed to what you described, which is community group liaison. If you think that it is enough to do what happened in Lanarkshire, that is fine. I do not know it all; I am just saying that there needs to be consultation.

It is true that people from community councils are involved in the process, but people who do not get involved in community councils—although they should—could also be included. If health boards wish to have a preliminary consultation in the way that you describe, that is permitted under the rules, as I said.

However, when I was trying to find out more details about consultations, it took me two and a half months to get information out of NHS Ayrshire and Arran—and I know my way round the system. I discovered that its project team for the reorganisation did not want to go out to consultation for at least another six months because it did not have everything ready. I do not have that in writing, but that is what the project team manager told me directly.

Whether you think that the process of consulting through community councils is adequate as a first stage or whether we should use the existing legislation to have a broader public consultation, I leave up to you. I think that a broader public consultation is better because it gives someone who is not terribly involved in local committees the chance to come along to a public meeting in their own right. They can say, "I am Joe Bloggs, I don't like what you're saying and I want to say something about it." That is fine. Although community councils are good organisations that I support whole-heartedly, they do not quite allow for the same thing. However, we could argue about that.

The Convener: Does your suggestion meet the criteria?

Dr McNally: That is one of those questions.

The Convener: I will allow members to make points before recommendations.

Jackie Baillie: I recognise that we could debate the matter for ages. I am conscious that some health boards—indeed, many organisations—use a pre-consultation almost to shape the consultation. Whether that should involve everybody or just a few people, the question for me and for many local communities is what has changed from one stage of consultation to the next. Perhaps a more useful measure would be to track what has changed as a consequence of each stage of consultation, irrespective of who is involved. Might that be a helpful way to address the truth deficit that you described?

Dr McNally: I entirely agree. The public are perfectly capable of taking difficult decisions and of taking on board information if they are given it. They are not necessarily informed, but they are certainly able to deal with information. If the public, having had a degree of consultation—preferably wide open consultation—see that their voice matters and has been listened to, they will support the proposal. We all know that it is never possible to make everybody happy but, if it can be shown that there has been a process of consultation in which people's views have been listened to, that is democracy.

John Scott: In an earlier answer to Jackie Baillie or Charlie Gordon, you said that, at public meetings, doctors on the platform were saying one thing but consultants from the floor were contradicting them. Could you elaborate on that?

Dr McNally: The word "spin" comes to mind. This issue is what made me angry enough about the Ayrshire proposals to get started on the petition. My uncle and aunt, who live in Lanarkshire, warned me about the Lanarkshire consultation and said, "Can you no do something about that as well?" That is why I find myself here today.

It comes back to what was said about the royal colleges and the professional, technical gobbledegook that can confuse things rather than clarify them. If there is clear agreement among all professionals in a particular group in a particular area, that is fine. That is what happened with the paediatricians in Ayrshire. They came together as a group and said, "Look, folks, we are sorry. This has to happen. If you don't like it, there are a couple of other options." Those other options were considered, but it was found that they would not work. That was fine. However, if the board is saying that, for example, the A and E consultants have all agreed to a proposal but, in fact, only the chairman of the A and E committee and a couple of other consultants have agreed to it and half of them most certainly have not agreed, there is a problem.

If a health board is transparent and honest and says that, although some folk disagreed with a proposal, the majority agreed to it, people will have more trust in the process. If it does not do that, it will have a situation in which the A and E consultant will stand on the platform and say, "We have now got joint rotation cover for the two hospitals," and the senior nursing sister from Ayr will stand up in the middle of the meeting and say, "You are not telling the truth, doctor. That has still to be put in place."

John Scott: What about ambulancemen and paramedics?

Dr McNally: It was reported that the ambulance service in Ayr was entirely supportive of the changes and happy to deal with everything that would be required of it. However, the extra ambulances and resources that are required for those changes have still not been quantified, even though the consultation process finished at the end of November or the beginning of December. Further, the only person in the ambulance service in Ayrshire who was in agreement with the proposal was the director. All the paramedics said that it would not work.

The Convener: That is important information.

11:30

Helen Eadie: There is no doubt that the issue that has been raised is one that everyone in Scotland—politicians, clinicians and patients—cares about. For that reason, I suggest that we seek the views of the Scottish health council, the Scottish Consumer Council and the Scottish Executive. We should also ask Citizens Advice Scotland for its views because it has taken over the role of local advocacy from the local health councils and therefore has an important role to play.

We should consider the bigger picture and the fact that 92 per cent of health care in Scotland is provided locally. Only 8 per cent is not. A great shift is taking place in the health service, with services coming out of hospitals and going to more local bases. I am sure that we all applaud that. Above all, we want everything to be safe for the patients. Finally, I commend the workforce planning inquiry that the Health Committee undertook last year. The report of the inquiry makes interesting reading and addresses a number of points about the royal colleges and about training, manpower and staffing issues throughout the health service.

The Convener: Do members have any other suggestions?

Members *indicated disagreement*.

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

Members *indicated agreement*.

The Convener: Dr McNally, we will let you know the outcome of our questioning of those bodies. We will consider your petition again when we have received the responses. Thank you for bringing your petition to us this morning.

Dr McNally: Thank you for your time and your attention.

Oil Depots (Public Health) (PE936)

The Convener: Our next petition is PE936, from Simon Brogan, calling on the Scottish Parliament to urge the Scottish Executive to review the public health implications of the siting of oil depots in

residential areas in the light of the Buncefield oil depot explosion in December. The petitioner considers that it is timely to raise his concerns about the siting of oil depots such as the BP oil products storage site at Kirkwall in Orkney. Members are aware of the petitioner's arguments.

Helen Eadie: The issue is of great concern to people. We should seek the views of the Scottish Environment Protection Agency, Health Protection Scotland, the Health and Safety Executive, COSLA, the Scottish Executive, the UK Petroleum Industry Association and the United Kingdom Offshore Operators Association.

John Scott: I agree. The petition is a compelling one and it is possible that legislation needs to be amended in the light of the Hemel Hempstead explosion. I am surprised that some oil storage tanks are located—according to the petition, at any rate—within 40ft of housing. I do not believe that houses as close as that would have survived at Hemel Hempstead. The petition is worth while.

The Convener: It certainly raises a lot of important issues. We should seek the views of all the organisations that Helen Eadie mentioned.

John Farquhar Munro: Does that include the Health and Safety Executive?

The Convener: Yes. Its views are vital.

Do members agree with Helen Eadie's suggestions?

Members *indicated agreement*.

Criminal Law (Procedures) (PE935)

The Convener: Our next petition is PE935, from Ian Longworth, calling on the Scottish Parliament to urge the Scottish Executive to amend criminal procedures to ensure that, when a procurator fiscal does not consider that it is in the public interest to pursue criminal proceedings, a full written explanation is provided to the alleged victim of the crime. At present, victims of crime are not provided with a written explanation by the Crown Office and Procurator Fiscal Service when a decision has been made not to go ahead with criminal proceedings. The petitioner believes that the current procedures are unsatisfactory for the victims of such crimes. Do members have any suggestions on how we should deal with this petition?

Helen Eadie: We should ask the Crown Office and Procurator Fiscal Service for its views and we should also seek the views of the victim information and advice service, Victim Support Scotland and the Scottish Executive.

The Convener: Yes. I think that we should give the Minister for Justice a chance to respond to the petition.

Mr Gordon: We should perhaps ask the Lord Advocate for his views. Does he not control procurators fiscal?

The Convener: Yes. The matter will probably have to go through his department. VIA is part of the Crown Office and Procurator Fiscal Service, so I suppose we will get responses from the Procurator Fiscal Service or the Crown Office, depending on who is best placed to respond to us.

Local Governance (Scotland) Act 2004 (PE939)

The Convener: The next petition is PE939, from Robert Dow, calling on the Scottish Parliament to urge the Scottish Executive not to proceed with severance payments to councillors, as provided for by section 18 of the Local Governance (Scotland) Act 2004. Before being formally lodged, the petition was hosted on the e-petition system, where, between 18 January and 17 February, it gathered 172 signatures and 22 comments were made about it in the discussion forum. The usual e-petition briefing has been circulated to members. Do members have any views on the petition?

Jackie Baillie: I am conscious that the matter has been scrutinised and debated by the Parliament previously, so I recommend that we pass a copy of the petition to the Local Government and Transport Committee for information, because the regulations will come before that committee for scrutiny. On that basis, however, I would close the petition, because the matter has been debated.

The Convener: It is now the law that severance payments will be made, so any complaints would have been dealt with when the bill was considered. However, a statutory instrument may have to be brought before the Local Government and Transport Committee before the provisions can be implemented, so it would be useful to pass the petition to that committee for information.

Jackie Baillie: Absolutely.

Current Petitions

Trust Law (PE817)

11:36

The Convener: The first of our current petitions is PE817 by Elaine Black and Ewan Kennedy, which calls on the Scottish Parliament to reform the law of trust to ensure that, where a trust has been set up for the benefit of a community, that community will be formally consulted by any party who seeks to change the operation of the trust, and that the view of each member of that community will be accountably considered before any change is made.

At its meeting on 5 October 2005, the committee considered responses from the Scottish Law Commission, the Scottish Executive and sportscotland, and agreed to seek the views of the petitioners on those responses. Responses have been received from the petitioners and circulated to members.

Jackie Baillie: I have had a quick informal discussion with my colleague, Pauline McNeill, who apologises for not attending today's meeting. She has a considerable interest in the petition. Members have copies of a helpful response that was sent to Pauline by Colin Boyd, the Lord Advocate. I suggest that, in addition to contacting the Executive to gain its views on the responses from the petitioners, we should also contact the Office of the Scottish Charity Regulator—which takes over supervision and regulation of Scottish charities from April—in order to acquaint it with the terms of the petition and to see whether it has any advice to offer.

The Convener: That sounds like a good suggestion.

John Scott: That would be worth while. The key point in the petition is that it should be made easier for persons who already have rights to enforce those rights. That is a reasonable request, in my view, so if a way can be found to ensure that people can enforce their rights without recourse to heavy-duty courts, that way should be found.

The Convener: Do members agree to follow Jackie Baillie's recommendation?

Members *indicated agreement*.

National Parks (Scotland) Act 2000 (PE805)

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

At its meeting on 8 September 2005, the committee considered a response from Loch Lomond and the Trossachs National Park Authority and agreed to invite the views of the petitioner on that response. A response from the petitioners has been received, so I invite members to discuss the issue.

Jackie Baillie: On rereading the papers, I find that there are two separate issues. First, there is the fact that the park authority for the Loch Lomond and the Trossachs national park is introducing a series of byelaws, some of which have support and some of which do not. However, the Scottish Executive has recently started a formal consultation process on the byelaws, which will last for 12 weeks; I encourage both petitioners to respond to that consultation. I think the Environment and Rural Development Committee will be the lead committee, so there could be an opportunity for it to scrutinise the proposals.

Secondly, the petition raises the much wider issue of the performance of each national park authority. I know from informal discussions that a parliamentary committee may well consider that in the future, but given that the national parks were established so recently, there is a view that it might be too early to conduct such a review. I do not know what other members feel, but my view is that we should encourage the petitioners to respond to the byelaws consultation and that we should consider passing on the petition to the Environment and Rural Development Committee for information at this stage, in the knowledge that it might well carry out an inquiry in due course.

The Convener: That is a reasonable suggestion. We could write to the petitioners to ensure that they are aware that they can contribute to the consultation. I agree that because the parks are barely up and running, it might be too early to scrutinise their performance—although that should be done at some point. Do members agree?

Members *indicated agreement*.

Local Democracy (PE880)

The Convener: Petition PE880 was lodged by Iain D Skene on behalf of the Renfrewshire and Inverclyde association of Burns clubs. It calls on the Scottish Parliament to consider and debate the democratic accountability of local authorities and, in particular, the accessibility of local elected representatives.

At its meeting on 21 September 2005, the committee agreed to seek the views of the

Scottish Executive, the Convention of Scottish Local Authorities, the Electoral Commission and Renfrewshire Council. Responses have been received and circulated. I invite members' views.

John Scott: At this stage, we should seek the petitioner's views. We usually extend that courtesy.

The Convener: We will write back to the petitioner to seek his views on the responses.

John Scott: I appreciate that the council has provided robust and comprehensive answers, but we should still write to the petitioner.

Criminal Law (Sexual Offences) (PE885)

The Convener: Petition PE885 requests the Scottish Parliament to amend the Scots criminal law on sex offences so that there is a statutory offence of male rape. That would bring the law in Scotland into line with the legal position in the rest of the United Kingdom and Ireland. The petition also wants the law to be changed to ensure that no offences may be committed exclusively by gay men and that all sex offences apply equally to everyone, whether man or woman, gay or straight.

At its meeting on 5 October 2005, the committee agreed to seek the views of the Scottish Executive and the Scottish Law Commission and to request an update on the commission's review of criminal law in Scotland on rape and other sexual offences. The responses have been circulated to members, along with the commission's discussion paper on sexual offences.

Helen Eadie: Do we want to do what we did with the previous petition and consult the petitioner about the responses that we have received, which are quite lengthy?

John Scott: That is a fair suggestion. The letter from the Scottish Law Commission is particularly helpful and I welcome it. I had not picked up on the fact that the petitioner has not been invited to respond. That being the case, I agree with Helen Eadie's suggestion.

The Convener: Okay. We will write to the petitioner.

New Towns (PE887)

The Convener: Petition PE887, which was submitted by the Rev Neil MacKinnon, calls on the Scottish Parliament to urge the Scottish Executive to review the long-term planning, social, economic and transportation issues surrounding the creation of new towns such as Cumbernauld.

At its meeting on 5 October 2005, the committee agreed to seek the views of the Scottish Executive, the Royal Town Planning Institute, North Lanarkshire Council, Architecture and Design Scotland and the Royal Incorporation of Architects in Scotland. Their responses have been received. Should we follow the same course of action that we have decided on for the two previous petitions?

Helen Eadie: Yes.

The Convener: That seems to be our agreed way of proceeding.

Secondary Schools (Lockers) (PE825)

The Convener: Petition PE825, which was submitted by Alana Watson on behalf of Rosshall academy students council and higher modern studies section, calls on the Scottish Parliament to urge the Scottish Executive to ensure that every Scottish secondary school provides lockers for pupils so that they do not have to carry heavy bags throughout the school day, which could cause back problems.

At its meeting on 26 October 2005, the committee considered the responses that it had received and agreed to seek the petitioners' views on them. The petitioners' reply has been circulated to members.

Helen Eadie: Perhaps we could seek the view of the Minister for Education and Young People on the response that we have had from the petitioners. It is encouraging that there are young people who are willing to be tenacious.

The Convener: Yes, that is encouraging.

John Scott: Have we not already had a response from the minister?

The Convener: Yes, but we wrote back to the petitioners and they have responded with further points. The suggestion has been made that we should put those points to the minister.

Jackie Baillie: Glasgow City Council has no policy on the provision of pupil lockers—indeed, no council in Scotland has. However, it was suggested that we could influence guidelines and the future design of buildings, so it would be appropriate to go back to the minister.

The Convener: Okay. Is that agreed?

Members *indicated agreement*.

Haulage Industry (PE876)

11:45

The Convener: Petition PE876, which is from Phil Flanders, calls on the Scottish Parliament to conduct an inquiry into the prospects for the Scottish haulage industry and any knock-on impact on the Scottish economy.

At its meeting on 8 September 2005, the committee agreed to seek the views of the

Scottish Executive, TRANSform Scotland, the Scottish Council for Development and Industry, the Federation of Small Businesses, the Transport and General Workers Union and the Confederation of Forest Industries (UK) Ltd. Responses have been circulated.

The Local Government and Transport Committee is in the middle of the inquiry that was proposed and has made enjoyable visits to parts of Scotland to examine freight transport. We even had a shot on a 747 last week at Prestwick airport. The inquiry is under way, so I do not know whether we can do much more with the petition.

Jackie Baillie: Given that the convener is having so much fun with the inquiry, I suggest that we refer the petition to the Local Government and Transport Committee.

The Convener: That is a very good suggestion. Is that agreed?

Members *indicated agreement*.

John Scott: It was a good day at Prestwick.

The Convener: It was very cold but enjoyable.

Railway Infrastructure and Services (Inverness, Thurso and Wick) (PE894)

The Convener: Our final current petition is PE894, which is from the association of Caithness community councils. It calls on the Scottish Parliament to consider investment in infrastructure, rolling stock and timetabling as part of a strategic root-and-branch review of the provision of rail services between Inverness, Thurso and Wick.

At its meeting on 9 November 2005, the committee agreed to seek the views of the Scottish Executive, First ScotRail, Network Rail, the Highland Rail Partnership, Friends of the Far North Line and Friends of the Earth. Responses have been circulated to members. Since the petition was last considered, the committee has received 145 letters in support of it.

Helen Eadie: Shall we seek the petitioners' views on the responses?

The Convener: Yes.

John Scott: We should also note the largely helpful tone of the responses, which is positive. That augurs well.

The Convener: We look forward to receiving the petitioners' responses.

That was the last of our petitions. I thank everyone for their attention.

Meeting closed at 11:47.

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