

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 26 June 2007

Session 3

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## PUBLIC PETITIONS COMMITTEE

### 2<sup>nd</sup> Meeting 2007, Session 3

#### CONVENER

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

#### DEPUTY CONVENER

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

#### COMMITTEE MEMBERS

\*Bashir Ahmad (Glasgow) (SNP)  
\*Claire Baker (Mid Scotland and Fife) (Lab)  
\*Angela Constance (Livingston) (SNP)  
\*Rhoda Grant (Highlands and Islands) (Lab)  
\*Robin Harper (Lothians) (Green)  
\*Tricia Marwick (Central Fife) (SNP)  
\*Nanette Milne (North East Scotland) (Con)

#### COMMITTEE SUBSTITUTES

Jim Hume (South of Scotland) (LD)  
John Wilson (Central Scotland) (SNP)

\*attended

#### THE FOLLOWING ALSO ATTENDED :

Alison Bourne (Friends of the Roseburn Urban Wildlife  
Corridor Association)  
Bob Doris (Glasgow) (SNP)  
Sir Peter Fry (Bingo Association)  
Mike Lowe  
Kristina Woolnough (Friends of the Roseburn Urban  
Wildlife Corridor Association)  
Sandra White (Glasgow) (SNP)

#### CLERK TO THE COMMITTEE

Peter McGrath

#### ASSISTANT CLERK

Richard Hough

#### LOCATION

Committee Room 1



## Scottish Parliament

### Public Petitions Committee

*Tuesday 26 June 2007*

[THE CONVENER *opened the meeting at 14:00*]

### New Petitions

**The Convener (Mr Frank McAveety):** Good afternoon. We are still waiting for one or two members of the committee but, as we have a quorum, I will open the meeting. By the time I finish my introductory remarks, the rest of the members might have arrived.

I welcome everyone to the second meeting of the Public Petitions Committee in the third session of the Scottish Parliament. I am the convener, Frank McAveety, and the names of the other members are on the nameplates in front of them.

We have a busy schedule to get through. Members have been issued, for information, with a note on the procedure that we follow when dealing with petitions that come before the committee. That should help us with our consideration of this afternoon's petitions. Obviously, through discussion, we can reach an appropriate decision about what to do in relation to each petition.

As I thought, we now have a full complement of members.

### Private Bills (Post-legislative Monitoring) (PE1034)

**The Convener:** Our first new petition is PE1034, which is from Kristina Woolnough, on behalf of the Friends of the Roseburn Urban Wildlife Corridor Association. The petition calls on the Parliament to establish a post-legislative monitoring body to ensure that commitments that are made by promoters during the passage of a private bill are adhered to. It was hosted on the e-petitions system, where it gathered 50 signatures.

Kristina Woolnough and Alison Bourne are here to speak in support of the petition.

**Kristina Woolnough (Friends of the Roseburn Urban Wildlife Corridor Association):** I am the chair of the Friends of the Roseburn Urban Wildlife Corridor Association, which is a protective and proactive group that looks after a stretch of land that is designated as an urban wildlife corridor and which has been approved as part of Edinburgh's tramline 1 route.

We participated in the Edinburgh Tram (Line One) Bill process, both before the bill was passed

and after it became an act. Throughout, it was clear to us that there were no mechanisms for the enforcement of verbal promises that were made during evidence taking in the Parliament. In the case of the private bill with which we were concerned, the City of Edinburgh Council is the enforcing body and the promoter of the scheme. A number of promises were made that have subsequently been reviewed on a cost basis and so on.

The Parliament is approving private bills—either through the old private bills process or through the new process that was established by the Transport and Works (Scotland) Act 2007—therefore we feel that it has some responsibility in relation to ensuring the enactment of oral and written pledges that are made by the promoter. That is certainly the public's view.

In a nutshell, our petition calls for a monitoring body to be set up to review whether promoters of bills deliver on the promises that they make during the parliamentary process.

**Alison Bourne (Friends of the Roseburn Urban Wildlife Corridor Association):** The best example of what we are talking about is what happened with the shuttle bus to the Western general hospital that was promised during the passage of the Edinburgh Tram (Line One) Bill. My understanding is that the Edinburgh Tram (Line One) Bill Committee had been fairly divided on the issue of the alignment of tramline 1 as it related to the hospital. We had argued that the route should be diverted to serve directly the front of the hospital rather than travelling along the whole length of the Roseburn corridor. The committee appreciated the arguments that we put forward and was divided on the issue until the last minute, when the promoter offered to provide a dedicated shuttle bus that would take tram passengers from Crewe Toll, on the Roseburn corridor, to the hospital. On that basis, the committee allowed the original route of tramline 1 to remain as proposed.

However, we have reason to believe that the shuttle bus will not materialise. It seems that the cost of running a dedicated bus on that route is quite prohibitive. The issue of the bus was key for the committee and, given its acceptance of TIE's assurances that the bus would be provided, the public have every right to expect that the bus will be provided and that it will not disappear because the costs of running it have been found to be too high.

There are other examples relating to noise and vibration mitigation measures and so on, but the shuttle bus to the Western general hospital is the key example.

**Kristina Woolnough:** The principle that we are talking about is the same in relation to any private bill; our examples relate to the Edinburgh Tram (Line One) Bill because that is the one of which we have experience.

**The Convener:** Do members of the committee have any questions?

**Tricia Marwick (Central Fife) (SNP):** As someone who was unfortunate enough to serve on the Waverley Railway (Scotland) Bill Committee, I well understand your concerns. Indeed, I would be extremely annoyed if some of the promises that were made by the promoter of that bill were not kept. However, I am concerned about the suggestion of having another committee to examine the matter. The private bills process has changed and I am not sure that we should set up a committee specifically to examine private bills. Would any other route be acceptable to you?

**Kristina Woolnough:** As you say, the private bills process has changed as a result of the Transport and Works (Scotland) Act 2007. However, the fact remains that a promoter can still promise the earth and not deliver anything. Our understanding is that a member of the public would have to legally challenge a promoter and say, "You promised this, here's all the evidence, you've got to deliver it." Clearly, that would be a frightening and expensive process.

We have called for the establishment of a post-legislative monitoring body. That would not have to be a committee of MSPs; the work could easily be done by officials, I suppose.

During the process, we found that there was no checklist that would enable members of the public, MSPs and the promoter to see clearly the promises, pledges and binding agreements that had been made. Instead, the promises were simply wrapped up in the verbatim records and so on. Now, if we wanted to argue our case, we would have to go back through screeds of evidence. There should be something that is almost like a shopping list that someone could use to say to the promoter, "This is what was agreed to and this is what you are going to deliver." Someone needs to act as an interface on behalf of the public.

On the way to this meeting, we were discussing the fact that there is no advocacy service for members of the public in this regard. Planning Aid does a great job of providing free consultants who give their time to members of the public and we wondered whether our proposal would be a way by which similar support could be provided to members of the public in relation to private bills. The private bill process was fairly hellish in itself, never mind following it up to ensure that the promises were delivered. There are two strands to

the process, in relation to both of which people require support: the passage of the bill and the aftermath. I do not think that MSPs need to be involved in that, but it would be nice if there were some sort of advocacy or monitoring body.

**Alison Bourne:** I know that the committee would have had a difficult job approving the alignment of tramline 1 had it not been for the promoter's assurance that a shuttle bus to the Western general would be provided. As a member of the public, I think that there should be some accountability for ensuring that such a promise is kept, whether that process involves MSPs or uses some other mechanism.

I can give another example of assurances that were given to the committee but which, it quickly transpired, might not be fulfilled. Many residents on the Roseburn corridor were concerned about the possible effects of noise and vibration from the tram. Where I live at Groathill is a pinch point on the corridor, because it must fit in two tramlines, a cycle path, a strip of vegetation and boundary hedging. Before the bill process started, TIE gave a written undertaking to my neighbours and me that it would retain a strip of vegetation between the hedge and the cycle path to keep the properties as far away from the track and noise and vibration as possible. TIE also promised that it would put in noise vibration mitigation at source, which would mean putting it down beside where the tram wheels would go. In evidence to the committee, TIE was adamant that noise mitigation had to be at source to be effective. The further away a noise barrier is from the source of the noise, the less effective it is.

The promise was, therefore, that noise barriers would be at source beside the tramlines and that there would be a cycle path, a strip of vegetation and boundary hedging—that was the commitment. However, barely two months after the private bill had been passed, I had the pleasure of having TIE's project designer in my kitchen, with two senior designers of the tram scheme, asking me how I would feel about the noise barrier running through my garden.

Parliament passed the bill and TIE gave the undertaking to which I referred, but I have no way of ensuring that TIE sticks to its original agreement. If TIE wants to put a noise barrier through my garden, it can do so, unless I take it to court. Despite the bill having gone through the parliamentary process, and despite TIE's assurances, the onus will be on me to fight against having the noise barrier in my garden.

**Kristina Woolnough:** What TIE has done discredits the bill process and will discourage members of the public from taking part in such processes. The process was a full-year journey for us, which was hugely time consuming. I am not

personally affected by the tram scheme, but we gave a lot of commitment to the process and came out of it with nothing. We could tell 50 different people about our experience, but it would get us nowhere. This is about integrity, accountability and taking responsibility for promises.

**Alison Bourne:** Many problems arose because the promoter, after promising various measures, added the clause “where reasonably practicable”, which meant bearing in mind cost implications. The committee accepted assurances that measures would be taken where reasonably practicable, but that gave TIE a get-out clause following the passing of the bill. On any of the measures that it promised, TIE can say, “We meant to deliver that, but now that we’ve looked at the costs—sorry, we can’t do it.” That leaves us with no recourse other than to go to court.

**Rhoda Grant (Highlands and Islands) (Lab):** The witnesses may have clarified this point, but I want to be sure. Are they saying that, while the bill was going through its preliminary, consideration and final stages, they were given on-the-record assurances? If that is the case, the witnesses are free to ask a court to ensure that such assurances are acted on. On-the-record evidence becomes part of a bill and part of the interpretation of a bill. The witnesses are saying that they understand that they could go to court, but that it would be prohibitively costly to do so.

**Alison Bourne:** We understand that the assurances are on the record, but they all include the proviso of the term “where reasonably practicable.”

**Kristina Woolnough:** Legal proceedings would be costly and risky because interpretation would be the issue. As I said, everybody agreed what the promises were, but that agreement was never firmed up. Our experience may be different from Ms Marwick’s on the Borders rail project, but there was a lack of clarity about certain matters.

There was a lack of follow-through. Why should it be down to individual residents to undertake that? The Roseburn corridor proposals concern a cycle path and a walkway, so a number of people who do not live directly adjacent to the corridor would be affected if the promised mitigation for wildlife—for example, badgers—was not provided. If you are saying that the law and the process of taking people to court is the answer, there must be support to enable people to do that if they are acting in the public interest, which they might be if they are trying to protect wildlife.

**Alison Bourne:** Other objectors to the tram scheme took on the noise and vibration argument in some depth and engaged professional experts to argue their position to the committee. The committee made special provision to determine

the noise levels at which the promoter would be obliged to provide different sorts of mitigation to lessen the impact of the noise. The problem is that the committee did not tie up that provision in the act, so there is now an on-going argument between the promoter of the tram scheme and the same objectors as to exactly what level of noise would trigger the mitigation—that was not made clear in the act. TIE has its interpretation of what was said, but the objectors have their interpretation and the parties cannot come to an agreement.

14:15

**Kristina Woolnough:** The act does not refer to the evidence gathering that went on beforehand. It does not include a phrase such as “and everything that was agreed during the process.”

**Alison Bourne:** TIE is sticking to the letter of the act; what I said about the shuttle bus is an example of that. I am not sure whether the act refers to the shuttle bus, but it refers to a feeder bus. Following the passing of the bill, TIE stated that, instead of having a dedicated bus service, it wanted to redirect existing bus services around the hospital. Not only is that not what was originally suggested, but various problems are associated with it.

The wording of the act is critical with regard to what happened subsequently. Most transport schemes are under such cost pressures that, unless the wording of the act is very tight, promoters will always look to save costs.

**Angela Constance (Livingston) (SNP):** What do the witnesses envisage that the role and remit of any post-legislative scrutiny committee would be, particularly if any recourse that was available to it was not bound in statute? If such a committee could not enforce the law, how could that be of practicable assistance to you in your situation?

**Kristina Woolnough:** It goes back to the legislative process and ensuring that the clerks, I suppose, record exactly any promises and pledges that are made and that they are agreed by all parties in a clear, written way. Such a shopping list, if you like, would give a monitoring body something to work on. However, how it would be enforced is the million dollar question.

The enforcing body for the tram scheme is the City of Edinburgh Council. If it did not meet noise mitigation requirements, the council’s environmental health department would be involved, despite the fact that the council is the promoter.

There must surely still be room for pressure and negotiation. For example, a parliamentary monitoring body could say, “Look, you promised

this, why aren't you delivering?" Such a monitoring body would have more muscle and kudos, and would be able to exert political pressure. The issue is about taking responsibility for legislation, is it not? A monitoring body could participate in the process, then say, "Okay, it's enshrined in law and is now on its own journey." However, I am not entirely sure because I am not very up on the law.

I suppose it is still possible that people taking part in the private bill process could be given advice. Such advocacy would not be political, but it could help people by giving them information about possible courses of action. How is an ordinary person, who is perhaps an elderly resident, supposed to know whether a right is being infringed and, if it was, what could be done about it? In addition, the associated bureaucracy would be impenetrable for the ordinary person. The short answer to my question is that I do not know, but I feel sure that someone here must know.

**The Convener:** Perhaps we can have a quick discussion on a couple of points, although I am conscious that we have a crowded agenda. The promoter of the tram scheme is the City of Edinburgh Council and, as one of the members said, the commitments that were made are on the record, so it might be worth while for the committee to explore the issues in detail with the council. Obviously, the Parliament will have an interesting discussion tomorrow on the future of the tram project—I am sure that every member is looking forward to that.

The essential point is that, if the bill's promoter entered into serious discussions that involved giving on-the-record commitments, it might be worth trying to tie down the details and getting agreement about what they are. However, I cannot legislate for how the promoter implements proposals. Alison Bourne raised that issue when she expressed her concern about the proposal to move the noise mitigation from where she had understood it would be to a location where it would almost be halfway through her kitchen. That is an issue that we can perhaps tie down with the council and which the committee could write to the promoting body on to get further clarification.

A second point that might be worth considering is that, although the private bill structure has changed, there may be some residue of it that might require the Scottish Parliamentary Corporate Body to see whether it could do something about the advocacy role, or at least enable folk to feel more comfortable in handling big projects or legalistic detail in the way that you have identified. I am open to members' views on that.

You suggest that an ad hoc committee might be set up to monitor pledges that are given by

promoters. Again, I seek views on that from members of the committee.

Do members have any strong views on those three items?

**Tricia Marwick:** The petitioners have raised a good point. If we had continued with the private bills mechanism under which the Edinburgh Tram (Line One) Bill and the Waverley Railway (Scotland) Bill were considered, we would probably have argued that, for future bills, once the legislation was done and dusted, a list should be drawn up of the pledges that were made during the process so that both objectors and promoters would be well aware of what was expected of them. In reality, we have moved to a different process and it is unlikely that any private bills will come before us as those did. In many ways, therefore, the witnesses are caught although they raise a good point.

On behalf of the petitioners, we should get in touch with the City of Edinburgh Council, the promoter of the bill. We should at least try to get from the council a list of the promises that it understands were made. It would be extremely useful to get the witnesses' views on those, and it would not be unreasonable for us to ask the council what it intends to do about the pledges that it made during the passage of the bill.

The Waverley Railway (Scotland) Bill Committee was firmly on the side of objectors who made a good case, and it was our expectation that the promoters would carry out the project to the letter. I do not recall the phrase "where reasonably practicable" being used many times, but I know that every bill committee was different. We argued for additional mitigation for noise or vibration and for additional screening because, although it was clear to us that the railway was in the public interest, we believed that no individual member of the public should suffer adversely if there was something that we could do about it. I would be extremely annoyed if the promoters of the Borders railway were not keeping their pledges.

It would be a useful starting point, at the very least, to find out from the City of Edinburgh Council or TIE, as the promoter, exactly what its understanding is of the undertakings that it gave and whether it intends to carry out those undertakings.

**Rhoda Grant:** Can we get some advice from the Parliament's lawyers about the legal status of the pledges and what recourse people have? If things were promised during the passage of a bill but it needs everybody to take each individual clause to court to have those promises enforced, it becomes unworkable. It would be good to find out what legal provision exists to see what is happening, to monitor the work and to keep the promoter to its word.



**The Convener:** I have just spoken to the committee clerks. A concern is the fact that things that are in the act are not the same as the commitments that were made. We need to gather that in and see where the gaps may or may not be, subsequently to determine how best to take the matter forward.

I can see what Tricia Marwick is saying. We are at the back end of the private bill procedural stuff, so the petitioners' initial concern about the advocacy role may be a bit more difficult to deal with. There is a new structure in place. However, if we can get the City of Edinburgh Council, as the promoter of the bill, to clarify a number of things, that might be useful before we determine what to do with the petition in the longer term.

Are there any other critical issues or recommendations that members feel would be helpful?

**Members:** No.

**The Convener:** We will raise the issues that the petitioners have raised with the bill's promoter, which means that the petition is still on-going. We will return to it, although we are approaching a recess. During that recess, we will have an away day for committee members to determine how we will deal with petitions that have been in the system for a long time and to define what stage petitions are at that have been progressing through the system. We will get back to you on the matter.

I hope that we have addressed the issues that you have raised to your reasonable satisfaction. Thank you for your time this afternoon.

**Alison Bourne:** We would appreciate any help that you could give us or any information that you could get from the promoter of the tram bills, but we recognise that it is probably too late for the tramline objectors generally. The act has been written and the promoter will stick to the letter of it. Our purpose in lodging the petition was to prevent the situation from arising in relation to future transport schemes, in the context of private bills being passed or whatever. Having been through that long and hellish process, we want to ensure that other people who have to go through it in the future are not faced with the same situation that we face now.

**The Convener:** We appreciate that. Gathering that further information will identify whether there are any spaces or gaps.

### **Bingo Industry (PE1040)**

**The Convener:** The next petition is PE1040, which has been submitted by Mike Lowe on behalf of the members of Premier bingo clubs in Kirkcaldy, Cowdenbeath and Edinburgh. The

petition calls on the Parliament to urge the Executive to recognise that bingo clubs have been hit by both the smoking ban and an unfair system of taxation and to make representations to the United Kingdom Government to tax the bingo industry in the same way as it does the rest of the gaming industry. Mike Lowe will make a brief statement to the committee in support of his petition. He is accompanied by Sir Peter Fry and Andrew McIntyre. You have three minutes.

**Mike Lowe:** Thank you and good afternoon. I am here with Sir Peter Fry, the chairman of the Bingo Association, and Andrew McIntyre to highlight the concerns of my clubs' members and the members of many other clubs throughout Scotland who play bingo on a daily, weekly or monthly basis. The petition was signed by customers at three of my clubs in Kirkcaldy, Cowdenbeath and Edinburgh. The fact that the petition managed to secure more than 1,500 signatures demonstrates the depth of local feeling about the issues and the genuine concerns of some of our customers and customers of bingo clubs throughout Scotland who fear that their local bingo clubs may close.

Policies that were introduced by the UK Government on a range of issues have come together to place the bingo industry under severe pressure. The Gambling Act 2005 will come into force in September, and the punitive tax regime combines with a much worse than anticipated impact of the smoking ban. I emphasise that the industry supported the smoking ban and still does, but the impact that the ban would have was grossly underestimated by the industry. I honestly feel that the industry cannot stand the combined impact of those separate issues.

I hope that the petition is fairly clear. I recognise that Parliament cannot address the issue of taxation directly. We ask the Parliament to take note of the industry's plight and to make representations to the UK Government to tax the bingo industry in the same way as it does the rest of the gaming industry. Income in casinos and betting offices, for example, is subject only to a gross profit tax, yet the equivalent income in a bingo hall is subject to gross profit tax and VAT.

14:30

I emphasise the important social amenity of bingo, which is at the heart of most communities. As an operator, I have had to close two of my bingo clubs, in Denny and in Kirkcaldy, and I know at first hand how that affects those communities. Bingo is an immense source of social entertainment. Women in particular can go there on their own and feel safe. For a great many of our customers, it is their only social outlet. Many of them have lost their husbands or wives, and it is

their only point of access to other people, to conversation and to a social environment.

We take our social responsibility extremely seriously—it is paramount to the business—and it does not stop at the front door. My managers and staff know our regular customers, and we know at first hand whether they are at their regular sessions. We regularly make hospital visits and send flowers to customers who are not well. In a great many circumstances, we are probably the only people in their community who know that they are unwell. We provide buses to ship customers from their homes to bingo premises, and free meals in the afternoons and evenings. I know of no other industry that provides such a level of care. Without a tax break, that caring in the community could easily disappear. We have already lost several clubs.

The bingo industry needs the Scottish Parliament and the Executive to recognise the seriousness of the situation and to use their influence to press the UK Government into action. Without that much-needed support, operators will certainly close.

**Sir Peter Fry (Bingo Association):** Thank you for inviting me here. It is interesting for me to be on the other side in this situation—I now understand how people used to think when I was in a similar position to that of committee members.

I want to make a couple of points to underline what Mike Lowe has said. We have discovered that, for some reason that is difficult to work out, when a bingo club closes, up to half of its customers do not adjourn to the nearest bingo club. We are doing an up-to-date survey on that to see whether our old evidence still holds good. We think it does.

That takes us to a second important question. What happens to those customers? We fear that because the Westminster Government has virtually encouraged the development of online gambling, there are many people who will, when deprived of their clubs, probably sit at home and carry on with their little bit of gambling online. The trouble with that is that they are not in an environment in which people are looking after their interests. Our clubs look out for people who are getting beyond what they ought to spend. That will not happen in people's homes.

Once people start to play one form of online gambling, it is a small step to all kinds of gambling, particularly what we call harder gambling. The Bingo Association is launching a campaign this year to try to explain why bingo is different. Mike Lowe has done a good job of explaining that, but not everyone appreciates that if someone plays only main-stage bingo, they cannot chase their losses. They buy their tickets for the evening and

that is it. That is not true in betting shops and casinos. We believe that bingo is different and that it is being assailed on three sides at once. We are not asking for a massive amount of public money. What we are asking for is understanding of our position and of what we provide in society.

It is easy for people to say, "The tax structure's nothing to do with us," or, "There's the Gambling Commission." That is true, but we remain concerned about our elderly people, and about people who are widowed and disabled. The bingo industry is commercial, but it carries a strong social obligation. The loss of a bingo club will disappoint some people, and if there is no effective alternative their quality of life will be reduced. There is now a more general argument, not just about hard and soft gambling, but about how people should be cared for effectively so that they can enjoy some quality in their lives—a bit of a gamble, going to meet their friends and, if they want to, having a drink. That should not happen in a way that will bankrupt them.

**Tricia Marwick:** I am mindful that responsibility for the taxation system rests with the United Kingdom Government and not with the Scottish Parliament. I note that Mike Lowe has had meetings with Alex Rowley, who is the constituency adviser to Gordon Brown, who is for the moment the Chancellor of the Exchequer. What was the upshot of those discussions?

**Mike Lowe:** He was interested in what we were talking about—we have two clubs in Gordon Brown's constituency, in Cowdenbeath and Kirkcaldy. Alex Rowley has relatives who played in bingo clubs, so he could relate to what I was saying. As to whether anything happened, I can only assume that the discussion went back to Gordon Brown.

**The Convener:** The chancellor has often said that he makes his tax decisions at budget time rather than throughout the year, so we will wait with interest.

**Nanette Milne (North East Scotland) (Con):** I fully appreciate what Sir Peter said about the social aspects of bingo. Bingo is not taxed in the same way as other areas of the gaming industry. How did that arise? Is there a historical background to that?

**Sir Peter Fry:** I understand that bingo started in the armed forces. It was one of the few things on which they could gamble legally. It was created to meet a demand—obviously there was, or it would not have been successful. Nanette Milne mentioned the historical aspect. It is amazing that we find grandmothers or grandfathers, mothers and daughters playing bingo. It is an activity that cuts across age differences that are inhibiting in many other activities. Over the past few years, we

have discovered that more young people are playing, but the problem is that they tend to play during hen nights and so on and they do not play often. That has been a cause for concern for some years.

**Nanette Milne:** Why is bingo not dealt with in the same way as the rest of the gaming industry?

**Mike Lowe:** Are we talking about how the regime for bookies and casinos altered in comparison with bingo?

**Nanette Milne:** Yes. I am wondering what the context is, why bingo is different, and whether there are representations that we could make about that.

**Mike Lowe:** Do you mean in relation to taxation?

**Nanette Milne:** Yes.

**Mike Lowe:** If I recall correctly, bookies or betting offices had a duty tax—it was a 9 per cent or 10 per cent tax. I would have to get this clarified, but I think that that tax was removed to promote easier gaming for gamblers, because they had to pay tax when they placed a bet, or on any winnings.

**Sir Peter Fry:** It is pretty well accepted that bookmakers got favourable treatment because many of the large ones went offshore to places such as Gibraltar—the leading bookmakers in the country said that, unless they got a good deal, they would all go offshore. As a result, the chancellor, who was concerned about his income, decided to accommodate the bookmakers. That is why they are in such an advantageous position.

**Claire Baker (Mid Scotland and Fife) (Lab):** I thank the witnesses for the illustration of the role that bingo clubs play in society. That was helpful. To follow up Nanette Milne's question about how the bingo industry is taxed in comparison with other gambling industries, I point out that a note from the Treasury last year said that bingo taxation falls into the same tax bracket as lottery duty and gaming-machine duty.

**Sir Peter Fry:** Yes, but we are not talking about the VAT on gaming machines. For years, the bingo industry has tried to make its basic product—main-stage bingo—as cheap and as attractive as possible. If people want to take part in games during the interval, that is up to them and that is why we have such machines. Because the machine income has to be added in, the overall VAT is considerably more than the amount that we pay on the main-stage bingo. However, we are not asking about the gaming machines—all that we want is for the tax on main-stage bingo, which affects the average customer, to be changed.

Last November, we were approached by officials from HM Revenue and Customs, who suggested a

way round the VAT problem. Last Christmas, we thought that that was going to happen—we are pretty certain that the minister responsible was sympathetic. However, I regret to say that, when the proposal went to the highest level in the Treasury, the answer was no. We are making play of the matter because we know that we won the argument with the Government, but somebody has to be told that they lost the argument.

**Mike Lowe:** To clarify the point about VAT, the main product in the bingo industry is, obviously, the game of bingo, although we have ancillary games. The issue is the VAT on the main product, which is the game of bingo. A lady who comes in and has a game of bingo will be charged VAT on the game in which she participates, but if her husband places a bet, he will not be charged VAT. VAT is liable only on the game of bingo, which is the main product.

**Claire Baker:** You picked out the tax system and the smoking ban as issues that are causing the squeeze on bingo clubs. Can you identify any other factors? You mentioned the competition from online bingo games, but are there any other issues?

14:45

**Sir Peter Fry:** Yes. The first is the Gambling Act 2005. When it was first announced, we hoped that it would introduce a new spring, but in fact it introduced an enormous amount of extra bureaucracy and we have discovered that we have not got most of the measures that we were promised. We were told that we could have new games, but we are having a terrible job trying to create such games. We have a new system of licensing that penalises small companies that have three or four clubs. Our members are subjected to much greater bureaucracy than they were in the past, but cannot help themselves by introducing new games, as they want. That is the second whammy that we have had, on top of the taxation issue.

The third whammy is the effect of the smoking ban. We want to be in business when society accepts the smoking ban, as it has accepted the smoking ban in cinemas. Cinemas used to be full of smoke, but now people cannot smoke in them and we do not find the public marching out saying that they will never go again because they cannot smoke there. That process takes time so, for that time, my members want to stay in business.

**Mike Lowe:** If it would help, I can explain briefly why the smoking ban has had an impact on bingo.

**Claire Baker:** I just wanted to find out whether factors other than the smoking ban and taxation are affecting the industry. That has been answered.

Tricia Marwick pointed out earlier that taxation is reserved to Westminster. You are at the Scottish Parliament, but what representations has the Bingo Association made at UK level?

**Sir Peter Fry:** At the moment, Wales has a similar problem to Scotland. We have started a campaign to assist our members in Scotland. In addition, we have launched a campaign called bingo is different, and we have persuaded members of Parliament to table an early-day motion that acknowledges the problems and states that we would like something to be done about it. We have lobbied every member of Parliament and every member of the Scottish Parliament—some of you might be fed up of getting letters from us. We have invited every member of Parliament to visit a bingo hall, with the aim of allowing them to understand that bingo is not what they imagine—which probably relates to how it was back in the 1960s—but is up to date, friendly and warm and is an excellent way for people to meet others and enjoy themselves. We have been trying to sell bingo to the policy makers.

In addition, we are trying to cope with understandable criticism from people who do not like gambling. I am not a big gambler, but I understand it and I like a flutter occasionally, as does nearly everyone. The issue is about how we moderate gambling and prevent an increase in problem gamblers. I am a founder and trustee of the Responsibility in Gambling Trust, the purpose of which is to try to reduce, understand and cope with problem gambling. We have been taking many other measures. We are not just banging on about the tax issue, important though it is; we are saying that we are at a peculiar time when we are under pressure from three corners. We have done all that we can reasonably do to talk to the Government. We get a lot of sympathetic hearing, but not a lot of practical action.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** When I first read your petition, I thought that I might have to declare an interest, because it started off being critical of the smoking ban. As I continued, I realised that I would not have to do that, because the petition discusses an issue to do with taxation—although we are all taxpayers, so maybe we should all declare an interest. Leaving that aside, my colleague Tricia Marwick has pointed out that taxation matters are reserved to another place, except in minor circumstances. You tell us that you have exhaustively lobbied MPs and most MSPs. It appears to me that you set great store by the Scottish Parliament's Public Petitions Committee and its ability to overcome the difficulty in which you find yourselves. I am sure that the committee is proud to hear that you have such faith in it and in the Parliament and that you think that we might be able to overcome the difficulty.

How might the committee overcome the difficulty, given your exhaustive efforts in the past?

**Sir Peter Fry:** First, I point out that, in addition to lodging our petition to the Scottish Parliament, we have compiled a national petition with nearly a quarter of a million signatures, so we have got out and about and started to enlist our members' support.

You asked what the committee might do. As I have tried to explain, the issue is not just about tax or the commercial future of individual bingo clubs: it is part of a general question about how we improve people's quality of life and understand the problems that various groups experience. Two thirds of our customers are women and many of them—unfortunately for them—are smokers. We believe that something that supports them but does not directly cost the taxpayer anything cannot be all that bad. We are not asking for money from social services. We are asking for the ability to give the service that Mike Lowe mentioned.

I dare to suggest that the matter is, in that sense, the responsibility of all levels of Government. We know that, in Whitehall, the issue is being farmed out to various Government departments, all of which feel that they ought to contribute—the Department for Culture, Media and Sport and the Department of Health are two examples. The same should apply to the Scottish Parliament, because it is responsible for the welfare of Scotland's citizens. We are concerned that the welfare of too many citizens will be reduced if there are no bingo clubs for them to go to.

**Angela Constance:** I listened with interest to your argument that the bingo industry is part of our social fabric and that it makes a huge contribution to the welfare of communities. Have you contacted or lobbied any organisations that are independent of the gambling industry but which, like you, have an interest in women, older people and the social fabric of our communities? Such organisations might independently vouch for and argue your case on the social agenda.

**Sir Peter Fry:** We have started to do that. I believe that there is a debate in this country about how far we want to go before there is too much gambling and before there are too many problems. Certain newspapers take leading roles in that debate. They discuss, for example, the fear of there being enormous casinos all over the place and the fear that people will spend far too much money on online gambling.

We need to put it to the people who are responsible that, when we talk about the future of bingo, we are not talking only about gambling. I am already seeing a spokesperson for the

Methodist Church and a leading member of the Salvation Army. You might think that they are unusual or unlikely allies but, if you follow my argument, there is something in common between them and us, as there is between them and you—it is an interest in social responsibility.

To put it crudely, we have to decide whether to subject a vulnerable part of our population to the dangers of more gambling. One cannot ban gambling in that one cannot stop people wanting to do it. If people want to gamble, they will bet on who will come through the door next. However, we can try to ensure that gambling does not do too much damage. In that sense, you are right—we need the support of organisations that one might think would not normally be on our side.

**Tricia Marwick:** You said that you launched a campaign called bingo is different. It is clear that bingo is different, because taxation is visited on it differently from bookmakers and the like. Recently, there has been much discussion about casinos, supercasinos and the future of gambling. Why does bingo have so little clout? Is it to do with the make-up of your clientele? Why are bookmakers and the gambling industry fêted and courted while the bingo industry is disadvantaged?

**Sir Peter Fry:** I do not like talking about social classes, but one of the difficulties is that the vast majority of our members are in social classes D or E. I doubt that that is true of casinos. We all know that certain parts of the community are more vocal and more influential than others. Many of our members have done what they can. They signed the petition, they support us and I understand that they have made life difficult for one or two Westminster MPs in their constituencies. However, it is our job, with our few staff, to try to push things forward. I believe that we have made the arguments but, as I said, I am afraid that they will not be listened to.

**Tricia Marwick:** Do you think this is a class issue?

**The Convener:** We cannot have a lord of the realm answering that question.

**Tricia Marwick:** That is why I asked it.

**Sir Peter Fry:** I have had to answer some awkward questions in my time.

In a way, it is a class issue. In talking to politicians and others who have an interest, we find that they often have old-fashioned views of what goes on in bingo clubs. They are warm towards the idea, and MPs and MSPs like going to their local bingo clubs because they can see more of their constituents in a short while than they can almost anywhere else in their constituencies. We are keen—and are pushing hard—to get MPs and MSPs to visit clubs and talk to the people who

play. Our customers telling MPs and MSPs how important bingo is to them will be much more influential than Mike Lowe talking about it, because our customers are also the voters.

We are trying to change the views of MPs and MSPs so that, instead of having just vague warmth towards the industry, they understand what it is about.

**The Convener:** We heard from the Bingo Association today, but our briefing paper on the petition suggests that we should also seek views from the British Amusement Catering Trade Association. We should also explore the equity issue with the Treasury. In November 2006, the Financial Secretary to the Treasury, John Healey, stated in a letter that the Treasury was working

“to build up a detailed understanding of the current state of the Bingo industry with a view to discussing with them what options there might be in the light of that detailed analysis”.

Do you know what has happened since that letter to the Scottish Executive?

**Sir Peter Fry:** On a point of information, when we wrote to MSPs in the previous session, many of them, including leading members, wrote to the Treasury. After humming and hawing, the Treasury said last Christmas that it did not believe that the position of the industry is entirely due to taxation. We have tried to show today that it is not entirely due to taxation. It is due to at least three things at once.

With the greatest respect to the mandarins at the Treasury, they say, “This is our area—we don’t think taxation is why you’re in this position,” but without saying what they think the reason is. As individuals who represent associations, we can only appeal to various aspects of Government and ask them to see our position in the round. My criticism of the Treasury is that it passed the buck to MPs and has accepted responsibility for only a small part of the problem.

15:00

**Rhoda Grant:** I suggest an alternative course. Given that taxation is a reserved matter, can we refer the petition in part to the relevant committee in Westminster and defer discussion of the smoking aspect of the petition until we hear from the next petitioners, whose petitions are on similar subjects? That would split the petition in half. Although we could do some research on the subject of the petition, we might be treading on toes.

**The Convener:** There is a concern about referring an element of the petition to Westminster—I invite the clerk to speak.

**Peter McGrath (Clerk):** The petition would no longer belong to the committee if members were

to refer it formally. However, members could certainly pass it on to Westminster with a covering letter for information.

**Rhoda Grant:** It is not our locus or within our gift to address certain issues raised in the petition. To lose that aspect of the petition is neither here nor there to us because we cannot do anything about it. It would strengthen the petition if we were to refer it to a body that has a locus—we could tell that body that we would deal with the aspects of the petition that refer to the smoking ban and fall within our remit. We could consider those aspects with PE1037 and PE1042.

**The Convener:** I understand, but I am conscious that the core of the petition and the presentation that we have heard today cut across a number of areas. I might as well be honest and say that I am not totally convinced that bingo is about social welfare, but there is a legitimate argument that social cohesion is part of its role in many communities throughout Scotland and the UK—bingo offers opportunities for folk to gather and engage with one another. Responsibility for the devolved as well as the reserved issues is probably covered by different ministerial remits.

There is an issue about the implementation of the smoking ban, which will soon be applied throughout the UK. How would we explore the resulting problems? There is no problem with the committee asking the Financial Secretary to the Treasury how his department has responded to the concerns raised about the unfairness—as the petitioners have presented it—of the tax on bingo. The Treasury might have a different view on the figures. The petitioners have presented an argument that we would like to explore further. There is no harm in our asking the Treasury that question, but we understand that at present the Parliament does not have the power to make such decisions on taxation. We need to concede that point.

We need to seek other perspectives on the petition from the organisations that we mentioned. I welcome other views from members that would be helpful to the discussion.

**Tricia Marwick:** The previous Minister for Enterprise and Lifelong Learning, Nicol Stephen, was in discussions with the Treasury in late 2006 about this very matter. We should seek information from the Scottish Executive about how far those discussions went and what the view of the Treasury was at that time. I am convinced that, as far as practicable, we have a responsibility to take up the issues that people bring to the Scottish Parliament's Public Petitions Committee, rather than pushing them off to another body.

I suggest that we seek from the Scottish Executive anything that it has on the previous

discussions with the Treasury and what the outcome was. That might be useful in helping us to form a conclusion about where we take PE1040.

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

**Angela Constance:** I am also interested in other perspectives. I do not know whether what I am going to ask is permissible, possible or even prudent, but as well as consulting the various organisations listed in our papers, is it possible to seek the views of organisations that are not associated with the gambling industry but have a clear locus in social welfare?

**The Convener:** There is nothing impossible about that, but we have to come up with a list of appropriate organisations from which it might be useful to hear.

**Claire Baker:** I agree with Rhoda Grant that part of the petition deals with reserved issues in which we have no locus. However, as Tricia Marwick pointed out, given that the previous Executive approached the Treasury on the subject, it is reasonable for us to approach the current Executive and ask it to request an update from the Treasury since November last year. I do not think that we want to go further and seek evidence or views from other organisations.

**The Convener:** Would it be worth while to ask two or three major local authorities for their view on the role of bingo in their communities? For example, we could ask the authorities in Fife and two of the cities.

**Rhoda Grant:** There is almost a need for another petition. The issues in PE1040 are not ones that we can address. There are issues behind the petition that are not included in the wording, for example about the impact on people of not being able to interact socially at the bingo. I stand by what I said earlier: put the petition with a body that has some locus and invite a further petition that allows us to look at the social impact and how we can support people who feel that they can no longer gather socially. Health issues are raised if people cannot interact socially. Although the Parliament needs to be concerned about that, the petition does not call on us to deal with it.

**Mike Lowe:** I would like to comment on the social impact. As I said, I have shut two bingo clubs, one of which was in Denny and covered a small area. It is a pity that members cannot witness the reaction of customers because it is quite dramatic. Although I understand about the commercial point of view, witnessing customers' reactions is very upsetting personally.

I spend just over £50,000 a year on providing transport from Denny to my club in Alloa to give customers whom I have deprived of bingo an

opportunity to maintain some community activity. That is at my expense. Overall, profits have been hit dramatically by the smoking ban, but that is not the issue. The issue is that we are still socially responsible and, on the provision of transport to just one club, I spend over £50,000 a year. That does not include the free transport that I provide from the other bingo club that I shut to one of my other establishments.

I assure members that the social impact is dramatic. I have customers who are 80-plus—some are over 90. What on earth are they going to do when bingo clubs close? They have absolutely nothing else. Operators carry that big moral concern and take it seriously—without those customers we do not have a business anyway.

**Sir Peter Fry:** Dare I say it, but it is not unusual for the Government to wait until the ceiling falls in before it decides to paint it. The Treasury is looking at its revenue from VAT. However, it does not seem to appreciate that its revenue will be reduced severely if the industry experiences the reduction in the number of clubs of up to 200 that has been forecast and if many of the clubs that remain in business are much less profitable—some in Scotland make no profit at all. One could argue that by giving some assistance now, a revenue stream to the Exchequer will be ensured later on.

The other point is that although the Government might be sympathetic, it is almost waiting for the worst to happen, as I said at the beginning of my remarks. Once a club closes, it will be too late and very difficult to go back to where we are now. It is no good waiting to act until 2008-09 if 200 bingo clubs close throughout the UK.

**Tricia Marwick:** We are in danger of making the petition more complicated than it is. The petitioners call on the Scottish Parliament

“to urge the Scottish Executive to recognise that bingo clubs have been hit by both the smoking ban and an unfair system of taxation and to make representations to the UK Government to tax the bingo industry in the same way as it does the rest of the gaming industry.”

If members recognise that bingo is being treated differently from the rest of the gaming industry—as I do—it is for the bingo industry, rather than the committee, to make additional arguments about social responsibility and the like. We should write to the Scottish Executive and/or the Treasury to point out the difference between the various taxation systems that are in place and to seek equity for the bingo industry. It is for the bingo industry to make the other arguments that it wants to make.

**Sir Peter Fry:** Would it help the committee if we supplied more information?

**The Convener:** We have received your submission and have heard the evidence that you

have given today. If you want to provide us with further information, that will be welcome. We agree that we need the Executive and the Treasury to provide us with further views on the accurate position and how to approach the matter. We do not want to find ourselves in a room calling “house” while the ceiling falls down on top of us. That is my good gag for the day; thank you for laughing.

People will have different views on the role of bingo in the wider community and the contribution that it makes to social cohesion. No one is decrying that contribution; I certainly would not do so, given that Parkhead Mecca is in the centre of my constituency. We must get a framework that ensures that cohesive elements in our communities do not disappear. We do not want people’s opportunities to mix to be reduced by the loss of such facilities. I understand the concerns that you have expressed and welcome the contribution you have made to ensuring that club members can continue to enjoy bingo—at another venue, if necessary.

I agree with Tricia Marwick that it would be sensible for the industry to collect some of the other information that has been mentioned, so that the petition remains live. We can ask the Treasury to give its view on the matter. I understand that members have different views on the right of the Treasury to do that—some of us know that the matter is reserved, whereas others wish that it were not—but we need to get that information. It would also be useful for us to get people’s views on the wider social role that bingo plays. We could try to get a snapshot of the situation by seeking the views of two or three larger authorities that have bingo halls in their areas on the impact that the closure of the halls would have on community development. I suggest that we write to two city authorities and, given that the petition emanates from Fife, to Fife Regional Council. I am showing my age—I meant to say Fife Council. I hope that those suggestions are helpful.

It has taken much longer than we expected to hear from the petitioners, so I thank them for taking the time to give evidence to us. We will keep them abreast of developments.

**Sir Peter Fry:** I thank the convener and members of the committee. Any help that you can give us will be much appreciated.

### **Smoking, Health and Social Care (Scotland) Act 2005 (PE1037 and PE1042)**

15:15

**The Convener:** The next petition that we have been asked to consider is PE1037, from David Nelson, on behalf of Fife Action Group, which calls

on the Parliament to amend the Smoking, Health and Social Care (Scotland) Act 2005 to allow smoking in pubs and clubs within designated smoking areas. PE1042, from Belinda Cunnison, on behalf of Freedom to Choose, calls on the Scottish Parliament to review the smoking prohibition and control provisions of the 2005 act and to adopt a comprehensive approach to indoor air pollution by introducing a regulated indoor air quality standard. Both petitions have received a significant number of signatures. A further 400 signatures have been received from Anne Marie Flack, a campaigner for the revision of the smoking ban in Scotland.

Both petitions express concern about the fact that the ban has led to a drop in sales and has had a negative impact on the elderly. They suggest that a properly ventilated smoking room would not interfere with people's health and dispute the arguments that were presented during consideration of the Smoking, Health and Social Care (Scotland) Bill regarding the damage that is caused by passive smoking. The petitioners are concerned that the health aspects of the ban have dominated other considerations, including its economic and social consequences. Do members agree to consider the two petitions together?

**Members indicated agreement.**

**The Convener:** I recognise that some of the petitioners are here and that they may be concerned about the fact that they are not able to speak directly to the committee. We want at our away day to work out how best to deal with the volume of petitions that are already in the system, given that we have just come through a period during which the Parliament was dissolved and that we are about to go into recess. That is partly why we decided to take evidence on two major petitions today. We concluded that we would not take evidence on petitions PE1037 and PE1042 because many of the issues that they raise were addressed during consideration of the Smoking, Health and Social Care (Scotland) Bill in committee and in the chamber, although I know that PE1042 calls on the committee to review the provisions of the 2005 act.

I know that there are many new members of the Parliament and of the committee, but a number of members are familiar with the broad principles of the debate from their involvement in scrutinising the Smoking, Health and Social Care (Scotland) Bill at its different stages, both in the Health Committee and in the chamber. As is the case with other matters, we will not get unanimity on the issues. Anyone who took part in the recent Scottish Parliament elections can testify to the fact that there are difficult problems to remedy, as there are very strong voices on both sides of the debate.

The petitions highlight the impact of the 2005 act and its consequences for pubs and clubs. They also question the evidence base that was cited during consideration of the Smoking, Health and Social Care (Scotland) Bill. I would be happy to receive recommendations from members on how we should handle the petitions this afternoon.

**Nanette Milne:** I was a member of the Health Committee in the previous session, during the passage of the Smoking, Health and Social Care (Scotland) Bill, so I am aware of the issues that have been raised. Many of the arguments that the petitioners have put forward were dealt with by the Health Committee. Towards the end of the previous session, when the Health Committee was discussing the legacy that it should hand on to its successor, there was keen interest in examining how the smoking ban is working and related issues. Far be it from me to suggest that we pass the buck, but I think that the petition should be referred to the Health and Sport Committee for discussion, if it intends to have a post-legislative look at how the ban is working. We could recommend that to the Health and Sport Committee if it, too, is holding an away day during the recess.

**The Convener:** That is probably the view of the committee as a whole. I am conscious of our time commitments today. If we agree to Nanette Milne's suggestion, the petitioners may have the opportunity to put to the committee that is responsible for monitoring and reviewing the 2005 act the points that they would otherwise have made in the three minutes available to petitioners at the Public Petitions Committee. That would be more appropriate. I support that proposal.

**Tricia Marwick:** I declare an interest, in that I know most of the petitioners who are here. I have spoken on many occasions to David Nelson and others about the issue and am aware of the concerns that have been expressed about some clubs in the Fife area. I agree with Nanette Milne that we should ask the Health and Sport Committee to examine the impact of the 2005 act. Given that it is almost a year since the smoking ban came into force in Scotland, it would be appropriate for us to ask the committee to look at the evidence that has been put before us today and to seek additional evidence from the petitioners. That would be a fine way forward.

**The Convener:** Do members agree to take the course of action that has been suggested?

**Members indicated agreement.**



## Current Petitions

### Seagulls (Health and Safety Hazards) (PE616)

15:19

**The Convener:** Under the next item, we will discuss a series of petitions. At our first meeting, last week, we were asked to discuss the status of current petitions—petitions that have been in the system for a while. We wanted to address the progress or otherwise through the system of petitions that the previous committee considered.

The first current petition is PE616, which calls on the Scottish Parliament to investigate and assess the health and safety hazards that seagulls in urban areas cause. At its meeting in late November 2006, the committee agreed to seek the petitioner's views on the findings of the research that the Scottish Executive commissioned from the University of Stirling. Members will note that no further comments from the petitioner have been received. Do members agree to note the research evidence that has been produced and to close consideration of the petition?

**John Farquhar Munro:** I am happy with that.

*Members indicated agreement.*

### Disabled People (Local Transport) (PE695)

**The Convener:** The next petition is PE695, which calls on the Scottish Parliament to ensure that local authorities make affordable and accessible local transport available to disabled people who cannot use public transport and to provide ring-fenced funding to local authorities and/or community groups to provide dial-a-ride projects for that purpose. At its meeting in late November 2006, the committee agreed to seek the petitioner's views on a response from the Minister for Transport. The petitioner's response has been circulated to committee members. Do members have views on how to proceed?

**John Farquhar Munro:** I understand that new legislation allows people who are disabled in various communities to call a number—to dial a bus, as it were—and be picked up. That relates particularly to people who are seriously disadvantaged—people who need wheelchair access and all the rest of it. I have a couple of those services in my constituency. A new and useful facility has been introduced.

**The Convener:** The Equal Opportunities Committee has pursued such issues rigorously and I think that it wants to continue to review and monitor the action that the Executive takes. The

key issue is the difficult question of combining parliamentary and ministerial guidance, if not legislation, with local authorities' rights to determine how to allocate the resources that are made available to them. That is always contentious. How do we wish to deal with the petition?

**Rhoda Grant:** Could we copy the petition to the Equal Opportunities Committee for its information, then close the petition, rather than keep it live? Copying the petition would mean that that committee was aware of the issues that are out there, which I am sure it will continue to scrutinise.

**The Convener:** I am comfortable with that. Are other members comfortable with that recommendation?

*Members indicated agreement.*

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

**The Convener:** The next petition is PE767 by Norman Dunning, on behalf of Enable. It calls on the Parliament to urge the Executive to review the operation of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. At its meeting in January 2007, the committee agreed, given the proximity of the election, to defer further consideration until after the election. Do members have any suggestions on how best to deal with the petition?

I have strong views on the subject. Enable's submission was compelling and powerful, because of its experience. It might be worth suggesting that the Justice Committee should consider the matter. It is one of those subjects with which, once we scratch the surface, we start to find that many things that should be done are not done. It is a shock to hear that inquiries make only recommendations, which do not have to be followed. I have dealt with constituents who have had issues that involved sudden death and I know that the failure of agencies to address sudden deaths through fatal accident inquiries is a big concern.

**Nanette Milne:** I agree. Now is probably an appropriate time to ask the Justice Committee to consider the petition, because all committees are formulating their work programmes.

**The Convener:** We will encourage that committee to consider the subject while it is compiling its work programme; whether it will thank us for that is a different matter.

Are we comfortable with the suggestion?

**Rhoda Grant:** As with the previous petition, can we copy PE767 to the Justice Committee? The subject is hugely emotive and it will probably come

to that committee's attention. If we copy the petition, that committee will at least have a note of the petition while it considers its work programme.

**The Convener:** Are we suggesting that we refer the petition to the Justice Committee for its consideration then close the petition?

**Members:** Yes.

### **Housing Stock Transfer (PE829)**

**The Convener:** The next petition is PE829, by Mrs Ann Ayre, on behalf of Carntyne Winget Residents Association. It calls on the Scottish Parliament to consider and debate the impact of housing stock transfer on Scottish communities. In December 2006, the committee agreed to seek further comments from the Minister for Communities. A response from that minister has been circulated to members, as has a further response from the petitioner, dated early May. The petitioner has also provided a detailed dossier of information, which is available in full from the clerk. The petitioner raises several continuing concerns. Do members have suggestions about how to deal with the petition?

**John Farquhar Munro:** Does the committee want to continue or to close consideration of the petition? It has been suggested that the matter could be discussed between the committee and the various housing associations.

**Claire Baker:** I do not think that we could add much more to help resolve the situation that the petition describes.

**The Convener:** The petitioner's letter says that a pilot has been undertaken to examine the housing stock. The issue is on-going and affects an area that is not in my constituency but which abuts my constituency. The scale of the pilot and its potential impact are a worry. The stock's long-term future is an issue for the residents association, the local authority, which has had a budget from Communities Scotland to disburse, and Glasgow Housing Association.

The recommendation is that we close consideration of the petition, given that some of the issues that have been raised are now part of the pilot study and discussion with the new Minister for Communities and Sport and his team.

**John Farquhar Munro:** I agree.

**Tricia Marwick:** I am reluctant to close consideration of the petition—

**The Convener:** I saw your face.

**Tricia Marwick:** I am reluctant to close it given that issues are outstanding. My slight concern is that I am unsure what the petition asks us to do. Is the petition about the impact of stock transfer as a

whole or particularly about Winget houses in the east end? Those houses present a particular problem, but a more general problem also exists.

I am reluctant to close the petition. Could we suggest that the Local Government and Communities Committee consider it? The previous Communities Committee's legacy paper suggested consideration of Glasgow housing stock transfer—that committee wanted at least to have a good look at the issue. Could the petition be part of such an inquiry?

**The Convener:** We can do two things—that will depend on how curmudgeonly or helpful Tricia Marwick wants to be today. I hope that she is in a good mood.

**Tricia Marwick:** I am always helpful, Mr McAveety.

**The Convener:** We could close consideration of the petition but send the Local Government and Communities Committee a letter that recommends that it consider the outstanding issues that the petition raises. The petition is about a specific issue, but that is framed by the debate about the bigger principle of whether housing stock should be transferred. Those are two distinct points. Given the volume of petitions that we have, I suggest that we close the petition but make a recommendation to the Local Government and Communities Committee.

**Tricia Marwick:** We can recommend that if that committee is examining—

**The Convener:** If that committee were considering stock transfer, it would make sense to consider the anomaly that the petition raises. I am aware of that because, before I was elected to Parliament, I was a councillor for part of the area that is concerned. Whatever agency deals with that stock, the issue is always complex, because that stock's nature means that it requires careful handling. There are not many areas in which we could think about substantial demolition and re-provision. The community that we are talking about is quite cohesive and quite likes the housing, which would be good quality if it did not have structural problems.

Do we agree to close consideration of the petition and to recommend strongly to the Local Government and Communities Committee that making the petition part of any wider study into the impact of housing stock transfer might be useful?

**Members indicated agreement.**

**Tricia Marwick:** I told you that I would be helpful.

**The Convener:** Thank you very much, but we still have the rest of the agenda to do.

### Ancient Woodland (PE858)

**The Convener:** PE858 is from Andrew Fairbairn, on behalf of the Woodland Trust Scotland. Members have the papers in front of them.

In January 2007, the committee agreed to seek the petitioner's views on the responses received from the Forestry Commission, Scottish Natural Heritage and the Scottish Executive. The petitioner's response has been submitted and circulated to members. Are there any suggestions about how to deal with the petition?

15:30

**Nanette Milne:** From the summary of responses, it would appear that the petitioner is quite happy with the progress that has been made, so I wonder whether there is any need to carry on with the petition.

**The Convener:** We can close this one with satisfaction, if that is agreed.

*Members indicated agreement.*

### Pingat Jasa Malaysia Medal (PE991)

**The Convener:** PE991 is on the pingat jasa Malaysia medal campaign. Sandra White MSP is here for this item.

The briefing paper is self-explanatory. The petition is on behalf of the fight for the pingat jasa Malaysia medal campaign and calls on the Parliament to support the right of Scottish veterans to wear and display it. The committee last considered the petition at its meeting in March 2007. As the committee had received responses from the petitioner and the Cabinet Office only shortly before that meeting, it agreed to consider them in more detail before deciding on further action. I have also circulated the comments that Don Touhig MP made in the House of Commons in support of his early-day motion calling on the Government to make representations to the Inter-Departmental Committee on the Grant of Honours, Decorations and Medals to overturn the decision.

Sandra, as you have taken the time to come to the meeting, do you wish to say anything at this juncture?

**Sandra White (Glasgow) (SNP):** If committee members want to go first, I am happy to wait.

**The Convener:** Given that you have made the effort to come to the committee, it would be helpful if you showed us your medals.

**Sandra White:** As long as I have permission to wear them.

**The Convener:** I am sure that you have a few medals from Paisley and the west end.

**Sandra White:** Thank you. I congratulate you on your appointment as convener of the Public Petitions Committee. I also congratulate everyone who is a member of the committee, new and old; I am sure that they will enjoy the committee as much as I did when I was a member of it. It is a very interesting committee.

The chap who gave evidence about the bingo clubs used the word "mandarins", and that word is apt in this case, too. It is the mandarins who seem to be saying that a medal can be awarded to someone but that if they wear it, they will be being rude to the Queen.

Members will have read the papers and seen that the situation is convoluted. The fact is that 150 Scottish soldiers died during the Malaysia campaign of 50 years ago, the Malaysian Government thought that it would be right to award medals to the servicemen who served there, and they were proud to accept that medal.

The anomaly arises because other Commonwealth countries, such as Australia and New Zealand, have allowed their servicemen the honour of wearing the medal but a British veteran serviceman cannot wear it because doing so would cause offence to the Queen. The issue is convoluted because, as it says in the papers, the veterans can wear the medal if they wish but they are not legally entitled to because of the offence that it could cause to the Queen. The veterans have written to the Queen and various mandarins, as we might call the Whitehall civil servants, and have been told that the letters were passed on but have not seen a response.

We are seeking permission for the servicemen to wear the medal. As the convener said, representations have also been made in the House of Commons and to the Queen. Jack Straw changed the rules slightly because, before 1968, they would have been able to wear the medal. There are mandarins at work in the civil service and someone has—to use a certain expression—taken the hump and decided that although the servicemen fought and 130-odd soldiers died, the rules are not going to be changed just to suit them. Other people, such as Queen's counsels, can wear the medal, so it is unfair that people who fought so valiantly that the Malaysian Government sought to present them with a medal—some laid down their lives—are not allowed by the British Government to wear it without causing offence to the Queen. I am here to back the servicemen and say that they should be allowed to wear their medal.

**The Convener:** Thanks very much. Do members have any questions or comments?

**Tricia Marwick:** Given the amount of nonsense that surrounds the issue, the petition makes me glad that I am unlikely ever to get an honour or a medal. The fact that the very brave people who have been awarded the medal are not allowed to wear it brings the system into disrepute, especially when we consider that the Governments of Australia, New Zealand and Fiji have obtained the Queen's consent that the medal can be accepted for unrestricted wear. I just do not get why people in this country are not allowed to wear the medal.

The difficulty I have is that I do not know where we can go from here. We have probably done everything that we can do about the situation, which is disgraceful. Our predecessor committee wrote to the relevant bodies about it. The petition calls on the Scottish Parliament to support the right of Scottish veterans to wear the pingat jasa Malaysia medal. Individual members have done that, but I suggest that, in addition to closing the petition—as we must do—Sandra White, with the support of one or two other members, could lodge a motion, which as many members as possible should sign. If a majority of members of the Parliament sign the motion, it might be accepted that our view is that the veterans should be able to wear the medal, regardless of what Westminster might say on the issue.

**Bashir Ahmad (Glasgow) (SNP):** Why are the veterans not allowed to wear the medal?

**The Convener:** My understanding of the correspondence is that a series of formal requirements must be met, but the position is not clear.

As Tricia Marwick has mentioned, the difficulty for the committee is that we have taken the issue as far as our remit allows us to. Essentially, the matter is one for the body that makes decisions about the granting of honours, decorations and medals.

Among the papers, there is a page and a half on "why eligible British recipients may exceptionally receive, but not wear, the medal."

The additional information in the papers might be helpful.

**Rhoda Grant:** This is a hugely emotive subject, which highlights what I said earlier about our consideration of petitions that are not within our remit. People petition us in the hope that we will sort matters out. The petition that we are discussing relates to a reserved matter and should not have been considered by the Public Petitions Committee in the first place; it should have been referred on to the Westminster Parliament to deal with. If that had been done, the petition would have been given a wee bit more strength. I suggest that we do that now, somewhat belatedly, and close the petition.

**The Convener:** We should close the petition regardless of the issue that you have raised, which we can explore at our away day and on which I expect that members might have differing strong views. Given the nature of the situation that we are in, it would be advisable to close the petition and to acknowledge Tricia Marwick's recommendation.

I should have declared an interest—I received deputy lieutenant recognition from Her Majesty.

**Tricia Marwick:** I am saying nothing.

### Abusive Parents (PE997)

**The Convener:** PE997 was submitted by Peter Cox on behalf of the Mothers for Justice Campaign. Our papers explain the background to the petition, which makes a series of recommendations. At its meeting on 15 November 2006, the committee agreed to seek views from a variety of support agencies, including Scottish Women's Aid, Families Need Fathers Scotland, the Scottish Child Law Centre, the Association of Directors of Social Work in Scotland and Victim Support Scotland. The responses that were received are all contained in today's committee papers.

Do members have any suggestions on how best to deal with the petition, which has been in the system for a while? According to the background material, an individual who was directly affected by the issue made a powerful submission to our predecessor committee, which I know from speaking to its members had a profound impact on them—they said that it was one of the few petitions that shook them to their foundations. Any views from members would be much appreciated.

**Nanette Milne:** I read about the petitioner, but clearly the issue affects many families. One of the options is to support the call for the judiciary to have appropriate training, because abuse is a sensitive area. We should pursue that with the Scottish Executive and perhaps the Justice Committee to enforce the point that there is a need for proper training of the people who are involved in the justice side of the matter.

**Rhoda Grant:** I will declare an interest, although I am not sure whether I should. I did some work for a women's aid organisation recently, so it is probably proper that I highlight that.

The petition raises a hugely difficult issue and needs more in-depth thought than we are able to give it. There are civil liberties issues but, way above and beyond those, there are also safety issues. I suggest that we pass it on to the Justice Committee and let it consider and research the matter.

**The Convener:** Do you want the Justice Committee to consider all the points that the

petitioner raised? I disagree with the emphasis of some of the responses that we have received. In some submissions, points a) to c) were swept to the side and point d) was elevated, whereas I think that elements of points a) to c) should be explored in far more detail. That is not the committee's strength, but it may be appropriate for the Justice Committee to explore the issues that the petition raises much further. Some of the assumptions that are made strike me as problematic, especially given the stuff that we have read.

**Angela Constance:** I agree. It is obviously a hugely complex area. I sympathise hugely and want to support the petitioners but, when we unravel some of the specific issues, it becomes clear that there are difficulties. Like you, I felt that there was more to be unpicked on points a) to c). Awareness raising in the judiciary would not go amiss, but the complexities of the other issues are more important.

**The Convener:** Do committee members agree that, because of what it proposes on the legal framework, we should refer the petition in its entirety to the Justice Committee with a very strong recommendation that it consider the matter?

*Members indicated agreement.*

### **Cheap Alcohol (Health) (PE1000)**

**The Convener:** The next petition is PE1000, which got great publicity. I declare an interest: it is from my former secondary school, which obviously has much more responsible teenagers now than when I was a pupil.

The petition calls on the Scottish Parliament to urge the Scottish Executive to investigate the public health implications of cheaply available alcohol. The papers explain some of the background and there are strong recommendations about what we should do with the petition. There are two recommendations: that we refer the petition to the Health and Sport Committee and that we bring it to the attention of Scotland's Futures Forum for its year-long study on the impact of alcohol and drugs in our wider communities.

**Tricia Marwick:** The petition is hugely important, particularly because we saw horrifying statistics last week on alcohol-related deaths in Scotland. The Health and Sport Committee and the Futures Forum will want to consider the matter, so we should send them the evidence that we have gathered to date with a strong recommendation—which, I am sure, will be accepted—that they hold an investigation into it.

15:45

**The Convener:** I can certainly take up the matter with the conveners of the Health and Sport Committee and the Justice Committee. I would be happy to try to find out which of those committees is the appropriate one to consider the petition, as a crossover issue is probably involved. Obviously, the Futures Forum can consider all the implications of cheaply available alcohol.

**Nanette Milne:** In the previous session, the Health Committee was interested in looking into alcohol abuse. I think that the Health and Sport Committee has a completely different membership, but it might want to progress this topical issue.

**The Convener:** I shall ply the members of that committee with a couple of drinks—they might then be more amenable. That is fine. We should do what has been suggested.

The petition is a credit to the students who have been involved with it. It is not easy for teenagers to argue in their peer group about the easy accessibility and diminished costs of alcohol. The petition is commendable; it shows the youngsters' strength.

The clerk has advised me that I should clarify whether members want to leave it to me to determine the best committee to send the petition to. Whether the petition goes to the Justice Committee or the Health and Sport Committee, we will make a strong recommendation about its importance. Is the clerk happier now?

**Peter McGrath:** I am very happy.

**The Convener:** Good. He is nearly breaking into a smile. That is a remarkable achievement.

### **Council Tax (Appeals) (PE1001)**

**The Convener:** PE1001, from Damian Pavillard, on council tax payments, will wipe the smile off your face. The petition calls on the Parliament to urge the Executive to remove the requirement that appeals to a local valuation appeals committee against decisions that a local authority has made in relation to council tax payment be initiated within a two-month period. Members have copies of the relevant paper. Today, we have received an e-mail from Alex Fergusson MSP's office, on behalf of his constituent who lodged the petition.

Do members have any suggestions to make about how to deal with the petition? Are members comfortable with the recommendation that we ask the Scottish Executive to write to all local authorities to remind them of their statutory duty to include with bills information about the right to appeal, and that we seek clarification from the Executive and Dumfries and Galloway Council on whether such information is routinely included with

demand notices and other relevant correspondence?

**Nanette Milne:** I have a lot of sympathy with the petitioner. There is an on-going saga. We may hear about the result of the meeting in September to which the e-mail refers, but it is difficult to know what we can do to help the petitioner.

**The Convener:** Do members want to keep the petition open until we receive a response, or are they happy to request that the appropriate letters be sent and to close it?

**John Farquhar Munro:** We should close the petition.

**Nanette Milne:** I was going to say that we should keep it open.

**The Convener:** Two different views have been expressed. Who thinks that we should close the petition?

**Claire Baker:** Can we seek clarification with the petition closed, or do we have to keep it open in order to deal with the responses?

**Peter McGrath:** The petition could be closed and information could be sent to the petitioner, or it could be kept open, which would allow the petitioner's response to come back to the committee.

**The Convener:** Do members have any views in the light of that critical piece of information?

**Tricia Marwick:** The Executive has offered to write to all Scottish local authorities to remind them of their statutory duty to include information about the right to appeal along with council tax bills, if the committee would consider that to be useful. I think that the committee would consider that to be useful, so we should ask the Executive to do that and close the petition.

**The Convener:** Do members agree that we should take the course of action that has been suggested and that the petition should be closed?

*Members indicated agreement.*

### **Shetland Islands Regulated Fishery (Scotland) Order 1999 (Revocation) (PE1003)**

**The Convener:** PE1003, from Sydney Johnson, is on Shetland shellfish—that is hard to say with a full set of teeth in. The petition, which is the penultimate petition on our agenda, calls on the Parliament to revoke the Shetland Islands Regulated Fishery (Scotland) Order 1999. Responses to it have been circulated to members.

Do members have any suggestions about how to deal with the petition? A recommendation for action has been made. The committee may wish

to consider seeking an update from the Executive on its review of the Shetland Shellfish Management Organisation's approach to licensing and its review of the effectiveness of the order. Are members willing to take that approach and to close the petition? Such an approach would be similar to our approach to the previous petition. Are members comfortable with that recommendation?

*Members indicated agreement.*

**The Convener:** There is some late news coming into my left ear from the clerk, who says that we should maybe keep the petition open in case there is an update. The recommendation is that we should wait until we get the update and then make a decision on whether to close the petition. That might be one of our priorities for our first meeting after the recess. If we get an update, we can deal with the petition in one way or the other. Is that agreed?

*Members indicated agreement.*

### **Animal Carcasses (PE1004)**

**The Convener:** The next petition is PE1004, on the environmental impact of animal gasification plants, which was submitted by David Adam. The petition calls on the Parliament to consider and debate the environmental impact of animal gasification plants and to urge the Scottish Executive to ensure that the Scottish Environment Protection Agency has sufficient powers and resources to deal adequately with the environmental problems that are associated with burning and rendering animal carcasses. The views of a series of organisations were sought, and the responses that we received have been circulated to members. Do members have any suggestions on how to deal with the petition?

**Tricia Marwick:** It would be useful to seek an update from SEPA and the Executive on the review of SEPA's enforcement policy and guidance. Once we receive that, if we think that that does not go far enough, we might be able to refer the petition to another committee of the Parliament for consideration. The petition throws up some issues and I am not satisfied that all that can be done has been done. I think that we should keep the petition open and seek an update from SEPA and the Executive.

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

*Members indicated agreement.*

**The Convener:** That concludes our consideration of petitions.

I remind members that we are considering possible dates for our away day; I ask members to

get back to us as soon as possible on that. The venue will probably be in Edinburgh. The festival will still be going on, and we will have an excuse to do something later if we have had a thorough away day. I am trying to make the away day Edinburgh based, which is a big concession for a Glaswegian such as me, but I am happy to do that.

**Rhoda Grant:** We received a list of some of the petitions that we need to consider. Can we consider them at the away day, or do we have to do that in a public meeting? If we do it in a public meeting, can we look at the ones that we could refer quite quickly—

**The Convener:** I will close the meeting formally and we can have that discussion off the record.

*Meeting closed at 15:53.*





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