

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 4 September 2007

Session 3

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## PUBLIC PETITIONS COMMITTEE

### 3<sup>rd</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)  
Marilyn Livingstone (Kirkcaldy) (Lab)  
John Scott (Ayr) (Con)  
John Wilson (Central Scotland) (SNP)

\*attended

#### THE FOLLOWING ALSO ATTENDED :

Jacqueline Lochhead  
Clive McGrory  
Sharon McMillan  
John Moist (Remploi Consortium of Trade Unions)  
Andy Morton  
Cathy Peattie (Falkirk East) (Lab)  
Tommy Sheridan  
Yvonne Smith  
Tom Taylor

#### CLERK TO THE COMMITTEE

Peter McGrath

#### ASSISTANT CLERK

Richard Hough

#### LOCATION

Committee Room 1



## Scottish Parliament

### Public Petitions Committee

*Tuesday 4 September 2007*

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

### Interests

**The Convener (Mr Frank McAveety):** I thank members, the public and petitioners for coming to the Public Petitions Committee's third meeting of session 3. I ask everyone please to ensure that all mobile phones, BlackBerrys and other electronic devices are switched off during the meeting.

We have received apologies from Bashir Ahmad and John Farquhar Munro. Other MSPs may join us later to discuss petitions that they have expressed an interest in, or which they know about.

The first agenda item is a declaration of interests, because we have a member who is new—or perhaps reconditioned. In accordance with section 3 of volume 2 of the code of conduct for members, I invite Robin Harper to declare any interests that are relevant to the committee's remit.

**Robin Harper (Lothians) (Green):** Under the heading of remuneration in the register of interests, I say that I am occasionally rewarded for appearing on radio shows. I have no related undertaking, election expenses, sponsorship, gifts or overseas visits to declare. As for heritable property, I own a flat in Edinburgh. I have no interest in shares.

Under the voluntary heading, I have membership of several organisations, which include Friends of the Earth (Scotland), Greenpeace, WWF, the Scottish Wildlife Trust, the National Trust, the RSPB, Historic Scotland, the Borders Forest Trust and other woodland organisations. I am the rector of the University of Aberdeen and the patron of several theatre companies, which include Forth Children's Theatre Group and Savoy Opera Company. I am an unremunerated member of the board of directors of Theatre Workshop in Edinburgh, Sounds of the Future Company and the Scottish Lime Centre.

I will add an interest that has just arisen in the past few weeks and is being registered. I am an unremunerated director of my wife's recently formed business communications consultancy—I might be called a silent partner.

**The Convener:** Other than that, you are not very busy.

## Proposed Petition

14:02

**The Convener:** We move to agenda item 2. Committee members have a note about a proposed petition by Dr Calum MacKellar. Rule 6.10 of standing orders provides that the committee is to

"decide in a case of dispute whether a petition is admissible".

The proposed petition calls on the Parliament to prohibit the creation of animal embryos that have been altered by the introduction of one or more human cells. Legislation would be required expressly to prohibit the creation of animal embryos as the petitioner requests, and legislation on human genetics is reserved to the United Kingdom Parliament. As the proposed petition seeks legislation on a reserved matter, the clerks have advised the petitioner that the petition would be likely to be considered inadmissible under rule 15.5.1(c) of standing orders. Members will want to consider whether the proposed petition is admissible and any comments from members would be helpful.

**Tricia Marwick (Central Fife) (SNP):** I think that the proposed petition is inadmissible. Nothing in standing orders prevents the Scottish Parliament from discussing issues that are reserved to Westminster, but I understand that the petition would call on us to prohibit the creation of animal-human embryonic hybrids and chimeras, which suggests that it would call for legislation that lies outwith the Scottish Parliament's remit. As much as I sympathise with the petition, I believe that it is inadmissible.

**The Convener:** Do we agree that the proposed petition is inadmissible under standing orders?

**Members indicated agreement.**

**The Convener:** I thank members for their help.

## New Petitions

### Air-guns (Ban on Sale and Use) (PE1059)

14:04

**The Convener:** The first new petition is PE1059 by Andrew Morton, who is present today with the other key petitioner, Sharon McMillan. Tommy Sheridan, who is familiar to many on the committee, accompanies them. The petition calls on the Scottish Executive to support a ban on the sale and use of air-guns, except for certified pest control purposes or for use at registered gun clubs. Before being formally lodged, the petition was hosted on the e-petition system, where it gathered 189 signatures.

I welcome Sharon, Andy and Tommy to the meeting. They have three minutes in which to make opening remarks. Before that, I indicate for the public record that a Mr Hatcher has tabled a letter to the committee that expresses his views on the petition and that copies of the letter have been given to committee members.

I invite Sharon to make the opening three-minute statement. Members will ask questions after that and any of the three witnesses can respond.

**Sharon McMillan:** First, I thank the members of the Scottish Parliament Public Petitions Committee for inviting us to Holyrood to be asked questions on our tireless battle to ban air-guns.

As you are probably aware, our son, Andrew, tragically died after being shot in the head with an air-gun pellet. Two days after he was shot, the doctors approached Andy and me and told us that there was nothing else they could do for Andrew, who passed away shortly afterwards. That tragic event happened on 2 March 2005 and by what would have been Andrew's third birthday, on 9 May 2005, we had put aside some of our grief and had stronger feelings about the menace of these weapons, so we started a campaign to ban air-guns across Scotland.

Since then, we have collected more than 11,000 handwritten signatures in support of the proposed ban. We have been constantly linked with the media and any time that an air-gun incident happens we are asked our views on television and radio, and for the local newspapers. It makes us very angry when we hear of such incidents. Do people not learn? They must have heard that air-guns can kill and that one did so in our case. Since the death of our son, Andrew, we have had a campaign with the *News of the World*, the *Daily Record* and the *Scottish Daily Mirror*, and have been invited to the Scottish Parliament by Tommy

Sheridan, who has backed a proposed bill for Parliament and who still works with us.

The legal age for purchasing an air-gun has been changed twice: first, from 16 to 17, then from 17 to 18. However, that is not good enough for us. The man who shot our son was 27. The police issued a warning to all parents about air-guns and replica guns, asking parents not to let their kids play with replica guns. If the police could not tell whether a gun that someone was using was a real one or not, they would shoot to kill.

The police say, however, that banning air-guns would not work because there are more than 500,000 of them in Scotland alone and the police would not be able to recall them. However, I feel that it would be a good idea to recall them. After all, the Government is recalling toys in their millions that were made in China because they could be harmful to children. Surely 500,000 items of the kind that killed our son can be recalled.

We are not against registered gun clubs or farmers who have to use weapons for pest control, but why would someone need an air-gun in a housing estate or another residential area? All they do is cause a menace to the public, harm people, break windows or harm animals and pets.

We have been joined in our campaign by Dr Mick North, who is the father of Dunblane victim, Sophie North, and by the Grimasons, who lost their son to gunshots over in Turkey. We have been asked to appear on the "This Morning" programme and we have even done a "Frontline Scotland" programme to deliver our message that guns kill. We will never give up until they are totally banned. Thank you for listening.

**The Convener:** Thank you, Sharon. Do members have questions?

**Rhoda Grant (Highlands and Islands) (Lab):** I have a huge amount of sympathy for the petition, but it is difficult to see what the Parliament can do at the moment because the subject of the petition is not a devolved issue. Have you had any contact with the Westminster Government and, if so, what did it propose?

**Tommy Sheridan:** Thank you, Rhoda. Sharon and Andy have asked me to try to field as many of the questions as possible. As I am sure you will all appreciate, it is quite nerve-wracking to appear as a witness at committee meetings.

Sharon and Andy have met Home Secretaries. Not long after they suffered the tragedy of losing Andrew, they were given certain assurances by the then Home Secretary, Charles Clarke. They had great hope that a ban on air-guns would be part of Westminster legislation. A lot of the media coverage that led up to the passing of the Violent Crime Reduction Act 2006 suggested that that

would be the case. In common with many people, they were gravely and sorely disappointed when all that changed were some of the restrictions, one of which Sharon mentioned. The fact that the age at which air-guns could be sold legally rose from 17 to 18 was as useful as a chocolate teapot to the people who want to restrict the circulation of such weapons.

Just before the close of the most recent parliamentary session, I introduced a member's bill, which had the aim of getting the Parliament to take a position on a matter that is recognised to be outwith the parameters of the current regulations under the Scotland Act 1998, but on which it is possible that there could be a reversal of position. If the Parliament takes a position on a matter that is outwith its legislative competence, Westminster must decide whether to support the Parliament or to refuse it the right to proceed with the relevant piece of legislation. In the current climate, it is clear that Westminster would not stand in the way of the Scottish Parliament being the first in Britain to impose a general ban on the sale of air-guns. It is in those terms that the petition's appeal to the Public Petitions Committee is couched. We feel that the timing is right, especially given the recent horrible tragedy in Liverpool involving a real gun. Air-guns are a big part of the culture of guns.

I will quickly outline some statistics that Rhoda Grant might be aware of. In preparation for the consultation part of my member's bill, System 3 conducted an independent opinion poll in March of this year, which asked whether the people of Scotland would support a general ban on the sale of air-guns. Eighty-two per cent of respondents were in favour of such a ban. There was 94 per cent support for it in Glasgow and 93 per cent support in Edinburgh. The proposed measure is undoubtedly very popular.

Significantly, the Fire Brigades Union, which represents emergency service workers, has backed the proposal forcefully because its members are the biggest targets for the misuse of air-guns in housing estates and schemes. The Scottish Society for the Prevention of Cruelty to Animals has also come on board because there has been a rise in the number of attacks on pets involving the misuse of such weapons.

Sometimes legislation is symbolic as much as practical. The banning of air-guns by the Parliament would be highly symbolic because it would tell people in Scotland as a whole that air-guns are simply unacceptable.

**Rhoda Grant:** I reiterate that I have sympathy for the case that the petitioners make and can understand where they are coming from, but it might be better to pursue a United Kingdom-wide ban because I am not sure that it would be

possible to police the supply of air-guns into and out of Scotland.

Our briefing papers mention the use of air-guns for pest control. I would have thought that air-guns were not an effective method of pest control and would represent a menace to animals. Are such weapons used in any way for pest control?

**Tommy Sheridan:** During the consultation on the bill, some local authorities reported that they still used air-guns sparingly, for example in the culling of pigeons. However, farmers and most organisations that are involved in pest control have moved away from using them because they are unreliable and can be brutal and inflict a great deal of pain, unless the shot that is fired is extremely accurate. Andy and Sharon are making the point that legitimate pest control is fine and should be licensed, but a declining number of organisations are involved in the use of air-guns for pest control.

**Angela Constance (Livingston) (SNP):** I thank Sharon and Andy for having the courage to make a presentation to the committee. Colleagues will be aware that the Government has commenced discussions about the Parliament's remit in relation to firearms legislation.

Tommy Sheridan made the interesting point that legislation banning air rifles in Scotland would be hugely symbolic. I accept that point, given that 58 per cent of offences that involve firearms involve air rifles, but how would a ban make the streets of Scotland safer in practical terms?

14:15

**Tommy Sheridan:** Five years ago, 47 per cent of firearms incidents related to air-guns, but now that figure is 58 per cent. In other words, there is a growing problem. The problem is neither peripheral nor getting smaller. In 2005-06, the last year for which accurate statistics are available, 79 per cent of acts of vandalism in Scotland were carried out with air-guns. Air-guns are used in almost 80 per cent of the smaller acts of antisocial behaviour, which can have a high nuisance value and cause much damage.

When I say that legislation would be symbolic, I am talking about sending out a message. If the Parliament is serious about getting to grips with a growing gun culture and the growing misuse of air-guns, grabbing the problem by the scruff of the neck and saying that the sale of those guns is now banned would send out a message to families and communities that air-guns are no longer acceptable. That would be in contrast to the current situation, in which we could take members to high street shops and markets in Glasgow and elsewhere in Scotland that sell not only air-guns but pump-action air-guns. Signs in the shop

windows boast about how powerful the air-guns are. Selling them is perfectly legal and people are making an awful lot of money out of the trade. If the Parliament were to step into the breach and take action, air-gun crime would not end overnight, but over a period of two, three, four or five years it would begin to be accepted that these guns are no longer acceptable. They would certainly not be available on the high street and pushed in the markets as they are now.

Andy and Sharon could tell you that not long after the tragedy of Andrew being shot, their other son was invited to try to purchase an air-gun weapon, despite the fact that he was under 18 years of age. He was able to purchase a very powerful weapon in the centre of Glasgow without any questions being asked.

Everything that has been done until now is merely window-dressing: a ban is necessary if we want to tackle the gun culture in the long-term.

**The Convener:** The debate between Government ministers in Scotland and the Home Office about the legislative framework continues. Some fairly strong stuff has popped up in response to the e-petition. Those who oppose the introduction of further legislation, restrictions or an outright ban argue that all the evidence shows that, even with more restrictions, there is still a major rise in the misuse of air-guns. As individuals who seek to outlaw the use of air-guns, how do you respond to the strongly held views of those who are involved in an activity from which they get enjoyment? They do not feel that they are threatening anybody else's right to live peacefully. They argue that there was an excessive case, which resulted in the tragedy that happened to Andy and Sharon's young son.

**Tommy Sheridan:** I will respond in a moment, but Andy or Sharon might want to respond to that question.

**The Convener:** I understand the debate in relation to the setting in which the incident occurred, but people who live in other parts of Scotland outwith such urban settings say, "I have used an air-gun for the past 20 years. I have never caused any problems and I am a peaceful person."

**Sharon McMillan:** There is nowhere to use air-guns, bar the streets. There are no gun clubs or fields in which people can use air-guns. They use them on the streets and they cause damage with them. They even hurt firefighters—they get shot. The man who saved Andrew and let us have him for the two days was shot in the chest and in the leg. The police have been shot at with air-guns; I cannot see what good air-guns do on the streets.

**The Convener:** I am setting out the debate that needs to take place so that we can unravel the

issue, irrespective of people's stance on it. Some people claim that the kind of incidents that have occurred could be dealt with by existing legislation on threats to human life and safety. If so, why would we want to introduce further restrictions on air-guns or to ban them, given that many people get a great deal of enjoyment from using them in other settings? All members of the committee will receive letters both for and against the petition. I am trying to explore that debate.

**Tommy Sheridan:** I have debated the issue with various gun clubs over the past 12 months. In the bill proposal that I introduced last year, I argued that gun clubs should have the right to hold weapons on their premises and that club members should have access to those weapons on the premises. Internationally, shooting is recognised as both an Olympic and a Commonwealth games sport. Whether people support its being a sport is irrelevant. However, you cannot make an omelette without breaking eggs; whatever you do will upset some people, as it is impossible to keep everyone happy. I cannot understand why gun club members should want to take their guns home. Having guns on lockfast premises that are secure and registered is one thing, but having them in wardrobes or under the bed in domestic settings is another.

When we spoke to people in rural settings—farmers and farming communities—many of them made the point that they no longer use air-guns and that, if they use firearms, they are likely to have a shotgun licence. Under a strict licensing regime, only a minority would hold air-guns. We are seeking a ban on the general sale of air-guns, not to ban them for everyone. However, people would require a licence to have one, just as they need a licence for firearms.

The growth in the proportion of firearms incidents involving air-guns is important. The figure has risen from 47 per cent five years ago to 58 per cent of incidents now. We are not proposing a magic wand; if we were, people would be right to say that we were talking rubbish, as our proposal will not solve the problem overnight. However, we are saying that it could be a big part of the solution. If people disagree with us, we are happy to debate the issue with them, but I find it difficult to accept that banning the general sale of air-guns would not affect the circulation, use or acceptance of those weapons.

**Tricia Marwick:** In the past, air-guns have been seen as not particularly threatening. Is that not one reason why we have so many of them? Do we not need to tackle people's belief that air-guns are not dangerous, given the tragic cases that are before us? Should we not work with the Westminster Government to produce legislation that suits Scottish needs?

**Tommy Sheridan:** On the way through from Glasgow today, I discussed that issue with Andy Morton and Sharon McMillan. As Sharon said, what is next once people have used and practised with an air-gun? It is part of the gun culture that everyone talks about and wants to tackle. I sincerely hope that this does not happen, but if in the next few days there is a tragic incident in Scotland involving the misuse of an air-gun and another child is either killed or seriously injured, much of this discussion will be accelerated and everyone will say that we need to do something. Should we wait for tragedies before passing legislation?

We have had enough tragedies. There have been three fatalities and 1,156 serious injuries in the past six years; we should not wait for another serious injury or fatality. I hope that the Parliament will present a united front. During First Minister's questions before the most recent election, even Mr McConnell, who was First Minister at the time, accepted that there was a case for further action. He accepted that then and the case has grown stronger since, particularly given the incidents down south. The people of England and Wales would be very pleased if Scotland were to take the first step because it would not be long before Westminster followed suit.

**Nanette Milne (North East Scotland) (Con):** Do we have any knowledge of the police's current thinking about the matter? I understand that the police have been against making further legislation in the past, but has there been any movement since? Perhaps we could find that out from them.

**Tommy Sheridan:** The police responded to the consultation document. Every local authority that responded—I think that 17 did so in the end—supported the proposed legislation. Voluntary sector organisations across the board supported it, too. The police said that they would implement whatever legislation was passed by Parliament, but they felt that simply banning the weapons would not end the problems. I think that we all agree with that.

The police did not comment on whether legislation should come from Westminster or Scotland, because that was not their biggest concern; their concern was whether the legislation could be implemented and, if it could be, whether it would be properly resourced. They would have to have an amnesty period in which they appealed for weapons to be handed in. Then they would have to monitor markets and shops and ensure that sales were being recorded. They would also need the public's support. Given the support that was expressed in the System 3 poll to which I referred earlier—I am sure that we could get a copy to all members if required—the public's support and involvement would not be a problem.

**The Convener:** We have had a good opportunity to hear from and cross-examine the petitioners. Members spoke about the need for greater clarity. One of the courses open to the committee is to write to the Association of Chief Police Officers in Scotland to get its definitive position on the material presented and the issues that have been raised.

Depending on the dialogue with the Cabinet Secretary for Justice and the Home Office, it might be useful if we were to write directly to both to find out their understanding of the current state of play, although that might be superseded by what is announced tomorrow about the programme for government. The committee should seek greater clarity, because powers and responsibilities for such weapons are a grey area with which we have all been grappling.

Andy Morton and Sharon McMillan's petition is part of an on-going process and the committee regards the petition as pushing the issue further up the agenda. We recognise that other agencies are dealing with some of the issues that you raise at a much more senior level than ours. Do members have further suggestions about what we could do with the petition?

**Nanette Milne:** In order to be fair, we ought to look at the views of gun clubs.

**The Convener:** So you want to write to an organised gun club and ask it about the implications of an outright or partial ban.

**Tricia Marwick:** It would be extremely useful to write to both the Cabinet Secretary for Justice and the UK Government. It is important that we give them a copy of the petition as submitted to us by Andy and Sharon. We should ensure that the Home Secretary is also given a copy of the *Official Report* of this meeting so that she can get a flavour of our discussion. I think that the Scottish Government is willing to legislate on firearms in Scotland.

If the petition is also given to the Westminster Government, that will make it clear that the people of Scotland expect legislation to tackle air-gun crime in Scotland and the banning of air-guns. That will add to the discussions that are currently being held between the Scottish Government and the UK Government.

14:30

**The Convener:** Are there any other suggestions from committee members?

**Rhoda Grant:** Is there any way in which we can refer the petition to the Parliament at Westminster as well? It has a way of dealing with petitions that is quite different from ours. It would be a good idea to refer the petition to Westminster to raise

awareness of the issue there. I feel that, in order to have sufficient impact, the matter should be dealt with on a UK basis. It should be simple to amend the existing firearms legislation. It will not require a huge amount of legislation to ban the sale and use of air-guns.

**Tricia Marwick:** My understanding of the petitions system at Westminster is that all petitions must be introduced by a member of Parliament. It is not a case of the MSPs on this committee referring the petition to Westminster; the petition would have to be introduced by an MP. There is also no requirement on Westminster to consider the petitions at all—they just sit there.

The issue needs to be dealt with urgently, and Mr Sheridan is right to say that we must ensure that the promises that we have made about legislating on air-guns are kept. I see no merit in using the Westminster petition system; we should directly approach the Cabinet Secretary for Justice, as discussion is already going on between the two Governments. We should make the Home Office aware of the strength of feeling that exists here and say that, frankly, dragging of feet on the issue is no longer acceptable.

**Robin Harper:** Given that the principal recreational use of air-guns is target practice, might we get a view from the manufacturers on whether it would be possible for them, at least in the interim, to make slugs with less penetrating power than they have at present? That may or may not be possible.

**The Convener:** The problem is the velocity at which the bullets are fired. That is what has caused such damage, especially to young children. In young Andrew's case, the softness of the tissue in his head because of his young age meant that there was a greater chance of fatal injury. Nevertheless, I am happy for us to ask for a view on that.

By writing to the Home Office at ministerial level and to the Cabinet Secretary for Justice, we are raising the level of debate. We will say that the committee has heard from the petitioners and wants clarification regarding the proposed legislative framework, the timescale for that and the powers that could be introduced to deal with air-guns. There may well be dialogue in the next 24 hours or beyond, but at least the Public Petitions Committee will have said that it considers the matter important. The Government has a copy of the petition and has recognised the public concern about the issue, and the petitioners have done some background research and consultation to back that up.

Those are the central issues. We can also write to two or three other organisations for views on the impact that an outright ban would have on the

effectiveness of those organisations. I think that that covers most of the concerns that members have raised. We will wait to see what responses we receive to those letters. Is that agreed?

**Members indicated agreement.**

**The Convener:** I thank Andrew, Sharon and Tommy for coming along this afternoon.

### **Land Reform (Scotland) Act 2003 (PE1061)**

**The Convener:** Our next petition is PE1061, from Mr and Mrs Mark J Lochhead and Mr and Mrs Henry McQueen Rankin, which calls on the Scottish Parliament to urge the Scottish Executive—or the Scottish Government; we have to get the phrase right now that we are in a new world—to ensure that measures taken by communities to tackle antisocial behaviour in urban residential areas are not restricted by the duty of the local authority to uphold access rights under the Land Reform (Scotland) Act 2003. Mrs Jacqueline Lochhead, who is accompanied by Tom Taylor and Yvonne Smith, will make a brief statement in support of her petition. Welcome to the committee. You have three minutes to make your opening remarks, before we ask you to respond to questions from members.

**Jacqueline Lochhead:** Thank you for giving me the opportunity to tell you exactly what has happened to us over the past six years. I am a bit emotional talking about it, because we have been through hell with antisocial behaviour. We have been bullied not only by our local council but by the thugs who are responsible for the antisocial behaviour.

We have a lane between our houses; my husband and I own one half of it and our next-door neighbours at number 107 own the other half. It is private land according to our title deeds and, as far as we are concerned, it is an extension of our garden. It is a bin access lane, which was probably used many years ago to provide access for the coalmen.

We have stayed in our house for about 14 years. Eleven or 12 years ago it was absolutely fine, but then we started to get lots of thugs going up and down the lane drinking Buckfast and throwing bottles into our gardens, shouting, damaging our property and urinating against the side of our houses—you have no idea what we have had to put up with.

After we had been away on holiday, we came back to find that our front window had been shot with an air rifle. It cost £1,000 to replace and it was not much fun having to get the money together. We told the council that we could not take any more and asked it to please help us and close our lane or put gates up to stop us having to suffer

such behaviour in our own homes. We were visited by the access officer from East Renfrewshire Council, who told us that we could not put up a gate and that there was nothing that we could do, whether the lane is next to our house or not, because there are no exclusions in the Land Reform (Scotland) Act 2003. The officer told us that people drinking Buckfast are allowed to go up our path—they have the same right as everybody else. We were not getting any help.

After about four years of letters being sent back and forward, we got a letter from the access officer's immediate manager, who told us that the problem was an antisocial behaviour problem, which was a police matter and had nothing to do with the council. We were told that the council was being victimised in all the letters that we had written and that we would have to deal with the police.

We did deal with the police, who have been very helpful. They sent us a good letter, which helped us to win the case for putting gates up, albeit that we have to open them during the day to let people up and down the lane. The police have said that if we put gates up to prevent crime, they have to be lockable.

I am asking the Parliament to ensure that the Land Reform (Scotland) Act 2003 defines clearly the areas of urban land over which access rights cannot be exercised and that the definition includes private bin access lanes or similar areas of ground. If that would be too wide a definition, perhaps the act could be enhanced to include the right of owners to close rights of way where they have sustained a period of serious disamenity because of antisocial behaviour.

My neighbour has collapsed four times with the stress of dealing with the council as well as the thugs. We did not take lightly the decision to put up the gates; one evening, 22 youths were in our lane causing mayhem. The gentleman at the back of our lane is 84 years of age. He is a Normandy veteran and thought that he could live in peace at his age, but he had his greenhouse broken 40 times by the thugs.

The council accused us of exaggerating the antisocial behaviour and suggested that it was not happening, even though our community council and around 80 per cent of the community thought that the lane should be gated.

We read in Friday's local newspaper that five boys have been charged with attempted murder, two of whom live in Stamperland in our area and have used our lane. That lets you see what we have had to put up with.

When we put the gates up, we were terrified that something would happen to us because people were not going to get down the lane. However, as

it turned out, the minute the gates went up, the antisocial behaviour stopped and we did not have any more bother after that.

**The Convener:** Thank you. I know that it can be an ordeal to sit where you are sitting. You did very well.

Does Tom Taylor or Yvonne Smith want to add anything?

**Yvonne Smith:** I am a neighbour of Mrs Lochhead, and I witnessed some goings-on myself. It started off as low-level antisocial behaviour, but then it got serious. People were throwing Buckfast bottles to try to hit windows. They were urinating, breaking windows, shouting and swearing. I described it to the police one night as sounding like the Hellfire Club behind my house. I do not expect to have to live like that.

There is an argument that the police should be called—oh, but they were. Mrs Lochhead did not mention it, but the police were called regularly. They were sick to the back teeth of going down our lane. All that anybody wanted to do was to restrict access to people who had a reasonable right to be there. The idea that the Land Reform (Scotland) Act 2003 states unconditionally that anybody can go anywhere at any time seems unreasonable, especially in an urban context.

**Tricia Marwick:** From our briefing paper, I understand that an enforcement order was served requiring you to remove the gates, but that you appealed to the Scottish Executive inquiry reporter and that on 26 July they agreed to your appeal, quashed the enforcement notice, and granted planning permission for the gates, subject to the condition that they be kept unlocked and freely usable between 8 am and 8 pm seven days a week. Does that not suggest that the measures that are in place under the 2003 act are perfectly adequate to deal with the problems that arise in an urban context? It is open to people to approach the inquiry reporter.

**Jacqueline Lochhead:** We did not take the decision to put up the gate lightly and we applied for retrospective planning permission, which the council refused because the access officer said that that could not happen. We then appealed to the Scottish Executive, but the council did not give the full information to the reporter who carried out the first investigation so, because she did not have a full picture of the situation, we lost the appeal.

As ordinary working people who have been through sheer hell in the past six years with the antisocial behaviour and the treatment from the council, we had to pay £15,000—£7,500 from me and £7,500 from my next-door neighbours—to fight the council and put up a gate to protect us in our own homes from antisocial behaviour. We are devastated. It has caused sleepless nights. We

have had to take on extra work to pay for the appeal—how can a council be allowed to do that to people? It is dreadful, and I would not like to think that anyone else would have to go through the same.

Not only that—the second reporter included in her report on 26 July that the paths are not suitable for people to walk on. They are certainly not suitable for disabled people. They are uneven and dangerous, and they are not really there for people to walk on. Even though she has said that, the council will not accept it, and it is trying to go in the back door, use the land reform law and make our path a core path.

**Yvonne Smith:** I was at a meeting of the access forum at the local council, and what Mrs Lochhead is saying is that the lane in question is still on the draft core paths plan, as are loads of other urban lanes. These lanes are a metre wide—they are not wide lanes that you could easily get even a pram or bike along. They are thin, narrow lanes. They are uneven and surrounded by high fences.

Reading the access code, we never believed that Parliament intended to cover our urban lanes when it was considering the legislation. I accept the point that my neighbours have won the planning appeal, but it has taken years and it has taken a lot out of them—and £15,000 in anybody's money is a lot.

I have friends all over Scotland—for example, in Aberdeenshire, West Dunbartonshire and South Lanarkshire—who live in similar John Lawrence houses to ours but who are not having the same problems with their councils. There is a lack of uniformity in the application of the access code and the 2003 act. That is what I kept hitting my head against. I could not understand why the interpretation that was made by one council was so—"extreme" is not the word that I am looking for—adamant, while others seemed to be more fluid in their application of the legislation.

14:45

**Tricia Marwick:** I thank Jacqueline Lochhead for coming, because I realise just—

**Jacqueline Lochhead:** Honestly, I am devastated. Six years of our lives this has been going on.

**Tricia Marwick:** I well understand, and I am grateful that you have come here today to put your point of view. I think that all of us have great sympathy with you, not least because it has cost you so much money to try to get peace of mind.

**Jacqueline Lochhead:** It has caused us financial strain, but the council just laughs.

**Tricia Marwick:** I well understand your concern.

Do you think that we need a change in the act, or that we need guidance from the Scottish Government about the interpretation of the act? I have come to this issue fairly new, but if one council is acting quite differently from others, it seems to me that what we need is not amendments to the act—the act itself is fine—but guidance on how councils should interpret it.

**Tom Taylor:** You are obviously a good mind-reader, because your question leads me to what I wanted to say. You have hit on the crux of the issue. Either we need the 2003 act to be altered, or we need specific guidance to be given to councils. There is a conflict. In Glasgow city centre, lanes are being gated, but East Renfrewshire Council says that lanes cannot be gated.

I will give committee members some background information. The lanes that we are talking about are disused service tracks that run behind terraced houses. They were the way the coalmen and the binmen got in and out, but that ended years ago. It was a long time ago, and I am too young to remember—probably a bit like yourselves.

**The Convener:** Flattery gets you nowhere in this committee.

**Tom Taylor:** But you have got to try your best—and you are a bit younger than me as well.

In Stamperland, there are 43 of those disused service tracks, and more than 50 per cent of them are blocked—either because they have been gated by the landowners, or because they have been allowed to become overgrown so that no one can go in. They have been blocked to stop neds going in, drinking their Buckfast, behaving antisocially and using the lanes as their dens before coming out to the street and causing mayhem. When the police arrived, the neds would go back into their dens. The lanes helped to perpetuate the behaviour.

I moved into the area two years ago. I am a retired police sergeant, but I was shocked at having wall-to-wall Buckfast-drinking neds outside my house. When they ran away, they went into the lane behind my house, causing mayhem. I was shocked that their behaviour could not be dealt with. However, the community got together with the police. A number of strategies came together, one of which was to gate and block the lanes—residents had started to block lanes apart from the one on Randolph Drive.

I had meetings with the access officer in East Renfrewshire Council. I was told that if people wanted to walk the west highland way, they should be able to start from behind my house—with their bottle of Buckfast. No one is going to do that. The Land Reform (Scotland) Act 2003 is a tremendous

act—it is great for people to be able to walk across Farmer Giles's field. However, it is not great to apply that access in an urban setting. No one in their right mind is going to walk down the lane behind my house. As Jacqueline has explained, you cannot walk down it because you would fall all over the place. The lane is pitch black, so people are going to walk down the road, which is only 10ft away, has got streetlights and has got people on it. No one is going to go down the lane. The council is out of step. It is misinterpreting the legislation and is trying to use it as a hammer to beat people with. People have tried to come together to defeat antisocial behaviour, but we have been hamstrung while the neds have not.

The land reform legislation is being misinterpreted. Something should be done to make councils realise that the act was not meant for settings such as these lanes but was meant for settings where people might want to use their rights of access to public rights of way. The advert shows people on horses and cycles. You would not get a horse down my lane; you are lucky if you can get a bin down it. It is not wide enough.

**Angela Constance:** I was very interested in this petition because, as a former councillor, I have had experience of the conflict that can arise between trying to take measures to address antisocial behaviour and the terms of the 2003 act. Like Tricia Marwick, I was never sure whether such conflict arose because there was a genuine problem with the act or because of the way in which it was interpreted.

Years have passed in this matter. Could your situation have been simplified and resolved more quickly by amending the legislation or the related guidance, or is it more a question of planning? After all, both issues are hugely complex. Could an access point have been established that would have allowed you and other people to resolve such problems more quickly?

**Tom Taylor:** There is no easy answer or cure to this problem. However, the council's gambit seems always to have been that antisocial behaviour is a police problem. I suggest that it is a problem for everyone, including the council. Perhaps guidance should make it clear that if people are experiencing a sustained period of serious disamenity as a result of antisocial behaviour, councils can allow access to be blocked. After all, if we are talking about access, I do not think that you will find a team of Buckfast-drinking neds walking along the west highland way or up beside Farmer Giles's bull. They will be walking down my back lane, throwing bottles into my property, urinating and doing whatever else and then coming out and stabbing people.

We need something that allows councils to differentiate on this matter and to say that this

tremendous piece of legislation should be implemented—after all, people have a right of access—but people should not have access to a lane of less than a metre wide running behind the houses of others. Common sense must prevail. The council has got to say, "I know that we have the land reform legislation, but it was never meant to apply in these situations." I do not know what form of words we could use, but it should be something like, "Don't be silly; this is not what the act was meant for."

**The Convener:** I am conscious that we need to leave time for our discussion. We certainly have a strong sense of your position as petitioners. Do members have any other questions?

**Robin Harper:** In getting the gates up, you have, in effect, won a test case. Would it help if we referred the petition to the Scottish Government so that it can at least consider your experience and make suggestions for firmed-up and clear regulations that councils can follow in future?

**Jacqueline Lochhead:** Yes. The relevant issues are ensuring private safety, crime prevention and a safe community and preventing antisocial behaviour instead of trying to cure things after the event. Imagine having to put up with this antisocial behaviour and finding that, every time you write to the council, it simply does not want to know and refuses to help. I actually got a letter from the director of services in the council saying that none of the staff would answer any more of my e-mails or telephone calls.

The first time round, we laypeople took a long, long time putting our case together. The second time round, we had to pay out £15,000 before anyone would listen to us. That is simply not right. We are only ordinary people who want peace and quiet and privacy in our own home. We were not getting any of that. As far as the metre-wide path is concerned, the access code states that people should be careful when they walk up people's paths. I like walking in the country myself, and I know that people who use the code correctly respect others and do not damage their property. Neds neither care about nor respect property.

Over and above that, when the gates went up, enforcement officers from East Renfrewshire Council appeared in cars at different times of the day to watch our lane and take photographs of our houses without telling us. Only recently, I met a new councillor who told me that the planning department is thinking of employing someone to ensure that our gates are open between 8 o'clock in the morning and 8 at night. After what we have been through, the department is now thinking of employing someone to spy on me. The council will not give up trying to make our path a core path by the back door, despite the fact that a Scottish

Executive reporter has said, "This path is not suitable as a core path—look somewhere else."

I appreciate this opportunity to tell the committee exactly what we have been through, because it has been dreadful.

**Yvonne Smith:** I think that what Mrs Lochhead is really saying in response to Mr Harper's question is yes. When she asked the council why under the act she could not restrict access to her lane, she was told, "Go and ask the Parliament; it's not our problem. We are interpreting the act correctly. The path is to be left open. End of conversation." That is why we are here. The bottom line is that we want prescriptive guidance to be given to all local authorities.

**Jacqueline Lochhead:** The only people who use the lane are our immediate neighbours. Nobody else sets foot on our path. It was closed for two years before we made our second appeal on the enforcement notices, but it is open now. We have to get up at 8 o'clock in the morning, but anything is better than the gate being open all the time. We all take turns to open the gate. As you can appreciate, it is not easy. Not one person has used the path since we had a decision from the reporter. Nobody goes down there during the day because nobody in their right mind would use it except the thugs. We still fear that the thugs will come back during the day. They have not come back yet, but they kicked down another gate. The neds said, "East Renfrewshire Council said we've got the right to be up your path." That is what we are living with in Stamperland. It is terrible.

**The Convener:** The local neds read planning committee reports to be able to give you abuse.

**Jacqueline Lochhead:** It is dreadful.

**Yvonne Smith:** It was in the local paper.

**The Convener:** They might have a training programme on the access code for the Buckfast drinker—that would be good fun.

The difficulty for the committee is that much of what you have been through and many of the issues that you have raised are to do with how the process has been handled at a local level, such as the level of involvement of elected members in trying to unravel the situation for you, or in raising issues at the planning committee. The central issue that you are asking us to address is the interpretation of the access code and it would be sensible for us to take that on board. We should write to the Convention of Scottish Local Authorities, which has responsibility for local authorities and has a broad awareness of things, to say that, given the information that you have provided, there might be anomalies in interpretation across the country. If you can provide us with further examples, to help us to

frame a letter, we would be happy to receive them. We will write to the Executive in light of the reporter's comments about the interpretation of the 2003 act. An unintended consequence of the act is that there may be an anomaly in your area in relation to the design of the backs of your houses.

Do committee members have any other suggestions?

**Angela Constance:** There is the issue of timescales. Wrangles about legislation can go on and on. We should ask COSLA for its views on how to deal with disputes about interpretation and how to truncate the process.

**The Convener:** It is difficult for us to adjudicate on disputes. We are trying to get clarification from key agencies.

**Jacqueline Lochhead:** This has been going on for six years. East Renfrewshire Council is putting the act into disrepute.

**The Convener:** A suggestion that has been floated by the clerks is that we could explore whether the Scottish Government, which drafted the legislation, feels that this situation is an appropriate interpretation of the intention behind the act. We can summarise a number of those points to try at least to articulate that for you. It is regrettable that finances had to be intruded on to deal with the issue. We cannot unravel that for you, but we can try to find clarity. It might end up that you are still not happy—I will not say that I will add to the sum of human happiness—but let us try to find out what we can.

**Jacqueline Lochhead:** We would welcome anything that could be done.

**Rhoda Grant:** It would be a good idea to clarify the role of the council and the police in dealing with antisocial behaviour. This issue has nothing to do with land reform; it is to do with antisocial behaviour and who has a duty of care to deal with that.

**The Convener:** It has been a long process, and it is on-going, but thank you for coming along to the Public Petitions Committee. You did very well.

**Jacqueline Lochhead:** Thank you.

**The Convener:** Can we have a wee break?

**Members indicated agreement.**

**The Convener:** Brilliant. Too much water.

14:59

*Meeting suspended.*

15:04

*On resuming—*

### **Employment Opportunities for Disabled People (Public Procurement) (PE1036)**

### **Employment Opportunities for Disabled People (Homeworking) (PE1069)**

**The Convener:** Petition PE1036, on employment opportunities for the disabled, was submitted by John Moist on behalf of the Remploy consortium of trade unions. The petition calls on the Scottish Parliament to urge the Scottish Executive, in partnership with Remploy and other sheltered workshop employers, to provide employment opportunities for disabled people by reserving local authority or Government contracts for supported businesses, as permitted by article 19 of the European Union directive on public procurement.

We will also consider a related petition, which I will mention now. It is important that we do not confuse the two: they are on the same broad theme, but they deal with distinct issues. The second petition is PE1069, by Clive McGrory, who is in attendance. The petition urges the Scottish Parliament and the Executive to encourage employers to provide homeworking opportunities for people with disabilities that prevent them from accessing the workplace.

We will hear first from John Moist and have a question-and-answer session on his petition, after which we will move to the second petition. Similar issues may pop up in the question-and-answer sessions. Cathy Peattie MSP has expressed an interest in the subject and will comment during the discussion.

**Tricia Marwick:** Before we start, convener, I ask that, rather than refer to PE1036 as being about “employment opportunities for the disabled”, we refer to it as being about employment opportunities for people with disabilities or disabled people.

**The Convener:** I am happy to do that. I think that, in future, you will want precision on such matters.

**Tricia Marwick:** Indeed.

**The Convener:** The look on your face told me that.

I hand over to John Moist.

**John Moist (Remploy Consortium of Trade Unions):** I thank members for allowing me to address the committee.

I realise that employment is a reserved matter, but procurement is devolved, and that is the

impetus for the petition. In a debate in the Parliament in 2004, Allan Wilson, the then Deputy Minister for Enterprise and Lifelong Learning, stated that the Executive would do all that it could to promote the cause of sheltered employers that bid for public contracts. Article 19 of the EU public procurement directive allows the reserving of contracts for sheltered workshops. However, to date, not a single contract in Scotland has been reserved under that article.

At the same time, many such organisations are finding that local and central Government funding is increasingly being squeezed and that supporting workers who are disabled is becoming ever more difficult. For example, Remploy is the largest supported organisation in the United Kingdom, with 83 factories, 10 of which are in Scotland. Of those 10, three are under threat of closure. The trade union consortium that I represent is nearing the end of a consultation period on potential redundancies, which concludes on 19 October. As things stand, 125 skilled workers with disabilities will no longer be employed by January 2008. Obviously, the trade unions are resisting that outcome.

As recently as 23 July 2007, John Swinney wrote to Jack McConnell stating:

“We will be issuing guidance on social issues in public procurement in the near future, including information on this legislation, and suggest that public bodies consider having at least one contract with a supported business.”

It is tragic that the Executive has retreated over the past three years. In October 2004, Allan Wilson stated that the Executive was

“able to give an undertaking that we will implement the provision in Scotland, consult Scottish sheltered employers on the terms of its implementation and implement it in a positive manner that will go as far as possible to assist our sheltered employers.”

He continued:

“we ... encourage public bodies to make full use of it.”—  
[*Official Report*, 6 October 2004; c 11070.]

However, in 2007, we have a commitment to publish information and to suggest to local authorities that they

“consider having at least one contract with a supported business.”

I make it absolutely plain that I am not making party-political points. Our campaign, through the friends of Remploy in the Scottish Parliament, has wide cross-party support. As a comparison, a Northern Ireland Assembly report has stated:

“We recommend that the Procurement Board should ensure that this scheme is well publicised and that procurement staff are instructed to apply it at every opportunity.”

That is the spirit that we are trying to get public procurement organisations in Scotland to take on

board. We want them to work in partnership with sheltered employment organisations.

In its response to the Executive's paper on sheltered workshops and public procurement, the National Association of Supported Employment's Scotland and Northern Ireland region said:

"Government can lead the way by setting the standard by which other contracting authorities could be measured by fully subscribing to reserved contracts".

It also said:

"Supported businesses see a need for a national register of supported businesses including details of services offered."

That would aid contracting and subcontracting arrangements.

NASE felt that it was

"important to seize the opportunity to define award criteria to ... reflect the social inclusion agenda and wider issues related to the employment of disadvantaged groups".

Finally, NASE said:

"It would be beneficial to clarify the definition of a contracting authority and also produce guidelines for the promotion and use of reserved contracts. A target would also be useful e.g. 20% of Public Sector Contracts to be reserved."

The consortium of trade unions concurs with NASE's view, although we accept that a target of 20 per cent might be a little ambitious in the immediate future.

A first step would be for the Scottish Executive to establish a forum of public procurement bodies, sheltered organisation employers and trade unions to support proactively and positively the reserving of contracts under article 19. To fail to do that would consign many skilled workers with disabilities to low-paid, no-skill work experience, whereas now, many perform skilled technical jobs and make positive contributions both to their communities and to their own self-esteem.

**Nanette Milne:** My memory might not be as good as it should be, but I think that in the previous session of Parliament, we heard quite a lot of presentations from a minister from the south about moving people with disabilities from sheltered workplaces into the main stream. Where do you stand on that general scenario?

**John Moist:** The position that the Department for Work and Pensions has articulated is exactly what you described. The Westminster Government would prefer to have opportunities for disabled people in mainstream employment rather than in sheltered workshops or organisations. The problem is that moving from a sheltered workshop employer to the main stream is exceedingly difficult and a considerable proportion of disabled people will not wish to make that transition, whether or not they can.

It is unfortunate that the idea is still abroad that people who work in sheltered workshops do something other than productive skilled labour. That is not the case. In the areas throughout Scotland that I look after for Remploy, we have technical factories that make specific products. We make the biological, nuclear and chemical warfare suit for the Ministry of Defence, which is a very high-spec garment. In Glasgow, wheelchairs are being manufactured for the national health service. A range of skills is used.

There is a misunderstanding. The people to whom I refer are in mainstream employment and they fulfil a vital function. They supply the MOD and other bodies—in the public and private sectors—with goods and services. However, the attitude among some charities is that factory employment is ghettoisation. They do not go to the factories, speak to the factory workers or see the skills that are acquired. We are having two different conversations in parallel and never shall they meet. There is a view south of the border that supported factory workshops are no longer fashionable.

15:15

**Rhoda Grant:** I will build on that comment. I do not think that the work of such workshops is not valued, but the fear is that segregated employment says that someone is different because of a disability. I am not sure whether the more sheltered workshops are a good stepping point to help people gain the confidence to go into mainstream employment, although I am not saying that such work is not productive.

We need to educate people. If disabled people are kept in sheltered workplaces rather than encouraged into mainstream employment, that breeds ignorance in the main stream, which works against the provision of opportunities for disabled people who are perfectly capable of working in the main stream. There is an argument for further discussion and education.

**John Moist:** The situation with progressions, which is what moves to mainstream employment are called in sheltered workshop organisations, is that the reward of financial aid is based on the number of people who progress—I disagree heartily with that term—from sheltered workshops into mainstream employment. Pressure is being put on sheltered workshop organisations to progress the disabled worker—or rather, the worker who is disabled—rather than the worker making the decision that they now wish to move from a sheltered workshop organisation into the mainstream. There is nothing to prevent an employee in any of the sheltered organisations from saying, "I now feel sufficiently confident to move into mainstream employment." That would

be encouraged—it is also the way to a grant. However, the current situation is quite the reverse: people who are content and productive and who do meaningful jobs are being encouraged—the word “forced” is perhaps too harsh—to move away from the sheltered environment into mainstream employment.

Time and again when I go into sheltered workshops, I see that particular groups of disabled people have entirely separate communities. For example, the non-speaking deaf community is exclusive in its language and behaviour. Imagine saying to that group, “We are now closing this factory and wish to move you into mainstream employment,” where they know they will not be able to relate to anyone because of language problems. The demand that they always make of us is, “If we’re going to go, we must go as a group because we have not just a work network but a social network built around our use of language and our exclusion from mainstream employees.”

Although those are problems to consider, there is no problem—instead there is encouragement—for people who choose to take their skills into the mainstream. There are numerous progressions every year. We are concerned about the lack of choice for those who wish to stay in supported employment and, in particular, for those people whose disabilities would disadvantage them in mainstream employment.

**Rhoda Grant:** You said that the target of reserving 20 per cent of public procurement contracts for sheltered workshop organisations is too high. What should the target be?

**John Moist:** I did not say that a 20 per cent target was too high; I said that it was slightly ambitious at the moment. Based on the figures that we received from public procurement organisations in Scotland, there is approximately £8 billion of public procurement in Scotland, of which about 35 per cent can be influenced; no one knows what the other 65 per cent is spent on. Remploy is currently campaigning for a national public procurement contract reserve of 5p in each £100. If we were to start with that reserve in Scotland, we would do exceedingly well.

One of my other concerns is about the view that a particular percentage of such contracts should be designated for and contained within supported organisations. Supported organisations can grow. Currently, about 3 million people are on incapacity benefit and it is hoped that they will be progressed into some form of employment. Therefore, there is no problem in growing the workforce in sheltered organisations; they have huge training schemes and the best-equipped learning centres of any organisations in the country. For example, every Remploy factory has a learning station with five or six computers and links with local colleges for

training. Those resources could be utilised to grow the workforce.

If we could get more public procurement contracts—the current figure is nil—there is a workforce or, if you like, a reserved army of labour, which everyone claims that they wish to utilise but which should be utilised by the organisations that can use it most effectively: sheltered organisations.

**Robin Harper:** This is more of an observation than a question. I visited the Remploy workshop in Lanarkshire, where some manufacturing is done and electrical equipment is reconditioned. For the record, the work that is done there is not only skilled, but done to extremely high standards—it has to be, to meet the standards that are set for the selling or passing on of electrical equipment.

I suggest that there should be a minimum percentage for public sector procurement from sheltered organisations. If the public sector was doing its bit—which it is not—in employing people with disabilities full time, at least 10 per cent of all employed people would be people with disabilities. It would be perfectly reasonable to set a minimum figure of 10 per cent for public sector procurement from sheltered organisations—that could be demanded almost as of right—and it would not be overambitious to set a target of 20 per cent. The range should be between 10 and 20 per cent.

**The Convener:** It is perilous to come to a committee meeting at which people pick up and dissect what you said 10 minutes earlier.

**John Moist:** It is unfortunate that the Wishaw factory that Mr Harper mentioned is listed for closure. Potentially, 65 of those skilled workers will be unemployed come the end of the year. Remploy has stated that it does not have a compulsory redundancy policy, but there are strings attached to that. The jobs of those 65 skilled disabled workers are under threat.

Percentages are always a difficult issue. Nil is the percentage of public sector procurement contracts that we obtain at the moment. Any figure higher than that must be an improvement. A figure of 10 per cent would be more than the sheltered organisations in Scotland could handle at the moment, without utilising the spare labour capacity that consists of people who are currently on incapacity benefit. I take your point that if we started by setting a specific figure, we could maximise the existing throughput in the plants and then expand it, which has never happened in sheltered workshops. Through expansion, retraining and utilising the spare capacity, we could reach the 10 per cent in a relatively short period.

The figure from NASE is somewhat optimistic. A target of 20 per cent of the 35 per cent of the £8

billion that is available in Scotland alone would represent a huge commitment. I would be delighted if the Scottish Executive went that far. My concern is that the permissive nature of the legislation is such that although we may reserve a percentage of public sector procurement for sheltered organisation employers, experience tells us that we do not.

As I said, I would like the committee to ask the Executive to set up a forum whereby we can advertise the skills, goods and services that supported organisations have to offer, examine what is required in public procurement through the economic cycle, bring the two together and start reserving contracts. The reservation of a contract does not mean that it will go to a particular support organisation. It means that all those support organisations that can supply the goods or services in question are allowed to tender exclusively within the supported employment world.

**Robin Harper:** Is there any hope of saving the Wishaw plant? I was so impressed with the work that is done there that it seems bizarre and cruel that it should be closed.

**John Moist:** I am working with the shop steward, the manager and a regional director of Remploy to see whether we can come up with a business plan that will allow us to keep the plant open. I realise that the issue is not directly within the remit of the Scottish Executive, but the Department for Work and Pensions has stated that, if we can get supported employees' subsidy down to £9,500, it is prepared to pay £9,500 per subsidised employee. That is our objective in our business plan. However, I find it extremely callous that we are putting such prices on the value of somebody's job.

**The Convener:** I am conscious of the fact that we must deal with another petition on a different issue. Our committee papers assume some continuity between the two petitions, but I would rather separate our discussion of them. That is the wish of the petitioners, who want the petitions to be debated separately for their benefit.

The outstanding issue is the inquiry into disability that was carried out by the previous Equal Opportunities Committee. It would be worth writing to the members of the current Equal Opportunities Committee, not to say that we are taking the issue on, but to say that our attention has been drawn to the fact that the issue might have implications for some of the recommendations that were made at the end of that inquiry. We can ask members of the Equal Opportunities Committee for their observations rather than hand the petition over to that committee—we are trying to explore issues without approaching policy area committees to

take ownership of those issues instead of us. It would be helpful for us to do that, if members feel that that is worth doing.

Mr Moist referred to the principal issue of the need to develop a national framework. We can write to the ministers responsible about where we are with that and what timescale they have for acting on the commitments that have been made.

Do members have any other recommendations on the petition about which they feel strongly?

**Rhoda Grant:** When we write to ministers, can we mention the suggestion that a forum be established for procurers, sheltered employment providers and the trade unions, in which they can iron out the issues that are preventing the reservation of contracts from happening? If the legislation exists, it is simply a case of smoothing the way to allow that to happen.

**John Moist:** Is it possible for me to pick up the point that Rhoda Grant has just made? It is important to bear in mind the way in which procurement is structured. The tender exercise is covered by the EU, but within that are three different formats: the framework agreement; a dynamic purchasing agreement; and special contract arrangements. Unfortunately, most sheltered workshop employers do not have the resources to get involved in the creation of framework agreements with public bodies. If we had such a forum, we could use it as a clearing house to ensure that framework agreements, dynamic purchasing agreements and SCAs could be set up without unduly pushing the resources of supported employers.

**The Convener:** That is helpful. Do members have any other suggestions, or is the committee happy with the suggestions that I made a moment ago?

**Members indicated agreement.**

**The Convener:** Thank you for your time, John. You are welcome to stay for consideration of the next petition, given the common interest in the issues.

Mr Clive McGrory is the next petitioner. Petition PE1069 calls on Parliament to urge the Scottish Executive to encourage employers to provide homeworking opportunities, in either a sheltered or a mainstream context, for people who have disabilities that prevent them from accessing the workplace. Cathy Peattie, who is Mr McGrory's constituency MSP, is here—she may wish to speak. I invite Mr McGrory to make some opening comments.

**Clive McGrory:** Thank you for separating the petitions.

**The Convener:** I thought that it was advisable.

**Clive McGrory:** I recently sent Richard Hough a copy of my final report and a copy of a report that was commissioned in December 1999, which the committee should have. My report outlines the obstacles that I have come across in attempting to get homeworking opportunities for disabled people even considered, let alone looked at as part of the normal recruitment process for business. I will read a short statement that is not in the report; the statement was sent to me recently by the National Group on Homeworking. The group has enough kudos to have the ear of parliamentary persons, and so on.

They state:

"Our ultimate aim is to improve working conditions for all home workers, so that home working becomes a real employment opportunity option for those who wish to work at home. NGH therefore supports the call to 'encourage employers to provide home working opportunities for those with disabilities which prevent them from accessing the workplace'. We believe Job Centres should be better informed and better able to advise those looking for work from home. We would like to see a wider range of jobs available to those who wish to work from home, provided that these jobs offer decent rights and protections. Home working does not suit everyone, but for some it is the ideal, or even the only solution to their personal circumstances. Homeworking is, therefore, an important option in a growing range of 'flexible working' arrangements, and the greater promotion of decent home working jobs would be to the benefit of individuals, the economy and society as a whole."

15:30

Unfortunately, the popular misconception is that disabled people cannot do things for themselves and so must be pitied. That myth, which has been perpetuated over the years, comes from a bygone era. Last week, I visited my consultant and spoke to him about this. He told me that vocational rehabilitation was probably one of the most important ways of preventing a disabled person from sliding down the slippery slope of despair and dependency. The British Society of Rehabilitation Medicine has published a 117 page document on the subject, called "Vocational Rehabilitation—The Way Forward".

It is too easy for people like me, who suddenly find that they cannot do everything they could once do, to become morose and full of self-pity. It is too easy to get on the slippery slope to depression and simply give up on life. Make no bones about it: when you suddenly find that you have to depend on other people more than you once did, it is a real jolt to the system and you are forced to make a lot of changes in your life. It took me a long time to come to terms with it, not least because of the drop in my income and the worries that came with it. I have been fortunate because I have had my family around me and a wife who has given up a lot to help me.

That said, we have a daughter who is not allowed to work in the workplace. She has been given low levels of care allowance and mobility allowance, and has to rely on income support to top up her incapacity benefit. She has all those allowances and benefits, but I would challenge any committee member to try to manage on her weekly income. She is lucky because she lives at home with us, but think of those who are on their own and for whom trying to survive each week is not a hobby but a necessity. When counting the pennies is a way of life, is it any wonder that so many people simply give up? What have they got to look forward to?

I remind the committee that because of the complex rules and regulations that are in place, once someone is on the benefit road, it is extremely difficult for them to get off. Furthermore, think of the cost to the national health service and to social services of having to support someone who has reached that stage. What savings could be made to the benefits bill, the tax concessions bill, the income support bill, the national insurance contributions bill and so on if such people could compete fairly in the job market? Think of the benefits to their self-esteem if they could earn their own living. In addition—and to be a little cynical—think of the income that the Treasury would gain if people like me could pay our taxes and national insurance contributions.

It is not rocket science to appreciate the importance of the issue, but the committee must ask why I have to petition Parliament to get the subject on the Government's agenda. Take a look at the official side of my road map: the DWP, Jobcentre Plus, Careers Scotland and the Department of Trade and Industry. All those departments are too willing to pass the buck and none has the capacity, the capability or the willingness to get off its backside and get involved. I admit that those are harsh words, but unfortunately the facts speak for themselves.

I was recently in correspondence with a group called the Disabled Workers Co-operative—a charity organisation that was set up to increase independence among disabled people who want it and to promote the benefits to the economy and society that could be made by disabled people—but, unfortunately, the organisation has run out of funds and is reliant on its members for contributions. Its project manager keeps the organisation alive by working unpaid from home. For me, that raises the question why such organisations are necessary. Why do we have to depend more on such organisations than on the so-called official departments? At the risk of repeating myself, I refer members to my earlier statement about the latter organisations' unwillingness to get involved.

Remember when disabled issues were first highlighted in the workplace? Remember, even, the new deal being introduced? There was much opposition at the time from business, but arrangements for disabled people are now accepted as part of the norm and are factored in to business plans. Unfortunately, however, neither business nor Government departments will do anything unless they are told to do so. That is not conjecture—it is fact. It will probably take legislation and/or amendment of, or addition to, the Disability Discrimination Act 1995 to get the recognition that home-based employment for disabled people should be considered part of the normal recruitment process, and that so many benefits could arise from such employment.

I have with me a four-page list of jobs that can be done from home. Not all of them are suited to disabled people, but the vast majority are. With the existing infrastructure, it would not cost business any more to incorporate home-based employment in its day-to-day working patterns and to consider it as part of the normal recruitment process. Such employment should, however, certainly not be regarded as an alternative but as an addition.

I will mention that the DWP was extremely quick to tell me that the issue comes under the DDA and that business must make every effort et cetera, et cetera, when it comes to employing disabled people. If the DDA is not adhered to, penalties are imposed. Is Parliament above the law? Certainly, by not offering inclusion for the whole disabled community, it can be accused of being discriminatory. Not all disabled people, because of the nature of their disabilities, are capable of doing any type of work. However, there are many who would—given the opportunity—jump at the chance. Unfortunately, from their perspective there are too many barriers to negotiate and too many attitudes to contend with, and the infrastructure to which they could go for help is non-existent.

I ask that Parliament set a precedent and take the initiative to raise awareness by debating the issue and taking constructive action. In doing so, it would once more lead the way and enable the rest of the United Kingdom to follow.

**Cathy Peattie (Falkirk East) (Lab):** I was a member of the Equal Opportunities Committee in the previous session. After a lengthy inquiry we found that many disabled people want to work, but that the levels of unemployment and receipt of benefits are high among disabled people. We heard that disabled people want a decent living wage and sustainable employment. We also heard that there is a need for real training—I do not mean training for our disabled people, but for people who give advice, who must understand what disabled people can do, whether they be young people with aspirations to follow particular

careers, disabled people who want to work in particular industries or whatever. We heard that people hope for support and flexibility. Flexibility makes sense for a good employer because it enables them to keep their employees.

In this age of new technology and a skills shortage, it makes sense that working at home might be a good option for someone with a disability, but the barriers that Mr McGrory has faced are immense. The barriers that disabled folk face day in and day out are unacceptable. We are losing people who would offer a lot to our communities. People want the right to be able to work and to have some money in their pockets. They want to be able proudly to say “This is my job”, whether the environment in which they want to work is the workplace, at home or in sheltered employment. It is no longer good enough to think that a wheelchair ramp for disabled people deals with the issue. People with disabilities have the right to work, the right to training and the right to flexibility in the kind of work that they do.

**Tricia Marwick:** I will play devil's advocate. We have great difficulty in trying to encourage employers to employ people with disabilities on their premises. If we have such difficulty trying to convince them to do that, what makes you think that we will have more success in encouraging employers to employ disabled people to work in their own houses?

**Clive McGrory:** What I am advocating is about more than just that issue. I would like to see us being able to compete fairly. At the moment we often cannot go to work, because we are not allowed to. Health and safety is one issue. I know that under the law it is no longer possible for an employer to get rid of someone on health and safety grounds, but if it is too dangerous for someone to work in the workplace they will not be allowed to do so. It is as simple as that. The people concerned have no choice. I would like to see such choice being made available; they should be given a flexible option.

My daughter worked in a call centre. It does not take a lot to envisage her doing the same job from a laptop at home. I am an administrator: I can type, do data entry and all sorts. Why cannot I do that as part of the normal workforce? It should be an addition to the normal recruitment process rather than an alternative.

**Tricia Marwick:** My problem is that we have failed over a long period in trying to encourage employers to at least reach the quota for people with disabilities in their workforces. Very few employers reach it, whether they be Government departments or other employers. If, to date, we have failed completely to convince employers to do that, how will we convince them to go further

and to employ people at home? I am having difficulty grasping that.

**Clive McGrory:** It costs a lot of money for an employer to set up a disabled station in the workplace, as he must provide specialist equipment—chairs and so on. If he were able to employ a person from home, he would not have that cost.

**Tricia Marwick:** Is not it a question of attitude and culture, rather than money? Something is very wrong when we cannot convince employers to employ more people with disabilities. The issue is not cost, but attitude, culture and lack of acceptance of people with disabilities.

**Clive McGrory:** The initial problem is the attitude of Government departments. The Department for Work and Pensions is downright rude when we phone it about the matter. It is quick to pass the buck and to say, "It's not our problem. Speak to Jobcentre Plus." If we ask Jobcentre Plus, we are told that it knows nothing about the issue and cannot help us. Where the hell should we go for help and advice? When I visited Careers Scotland, I was able to tell my interviewer more than she could tell me: that speaks volumes. It is obvious that the issue will be ignored because it is too difficult—Government departments are not prepared even to take it on board. If that is the case, what hope do we have of progressing further and getting employers to be more inclusive?

**Angela Constance:** I have heard from both petitioners that there is a desire for a spectrum of working opportunities for people with disabilities—sheltered employment, work from home and work of some other description in the workplace. What could Government do practically to make progress towards ensuring that people with disabilities have access to various work opportunities?

**Clive McGrory:** Government could start by getting its house in order and making Government departments aware of the issue. It could also help by promoting flexible working arrangements under the DDA. The key issue is flexibility. If employers can be brought on board and told that they must incorporate flexibility into their recruitment patterns, they will not like that, but they will do it. In doing so, they will give more people a fairer opportunity to compete in the job market. At the moment, employers are unwilling to accept flexibility in working patterns.

**Cathy Peattie:** Some really good employers have crossed the line. They have looked at recruiting more widely and at ensuring that there are people with disabilities in the workplace, and they have worked on training and awareness raising with their able-bodied staff. The issues that Tricia Marwick identified can be addressed by raising awareness and encouraging people to

consider flexible working. Whenever I work with employers, they say to me that they did not think about that or that it was too hard. At the same time, they are telling my constituents and me that there is a skills shortage and that they do not have people to input data or other work that they need to have done. I am sure that that is also the case in other areas.

We need to encourage people to think outside the box—to look at what is flexible and at what could be done to change the way in which we work. Flexible working makes more sense across the board, whether we are talking about people with disabilities, people with young families or carers. Attitudes will not change overnight, but much work has been done to encourage people with disabilities into the workplace and to encourage provision of training, support and flexibility. Change is possible, but we cannot expect Mr McGrory alone to tackle the issue; we all have a responsibility to try to make things happen.

15:45

**Clive McGrory:** An employer might have 1,000 people on his staff, but there is never enough time in the day to get everything done, such as archiving and other jobs that his workplace-based employees might think mundane. Perhaps we would not think such work was mundane. Why not farm those jobs out? The employer could utilise the staff on the premises more productively and efficiently and keep them happy. I am not a businessman, but it is not rocket science.

**The Convener:** You have touched on similar themes to those that are raised in PE1036. As part of our exploration of attitudes to sheltered workplaces, I suggest that we write to the appropriate ministers in the DWP and the Scottish Government to say that the issue has again been drawn to our attention and to ask what recommendations are being made, in an attempt to get more clarity on the issue. Broad themes have also been raised to do with the need for a national framework and a forum, which we are happy to pursue. We should also ask the Equal Opportunities Committee to comment.

Our inquiries will start going through the mincer and it will take time to unravel the issues. I will say this to tons of folk during this session of the Parliament: the Public Petitions Committee cannot guarantee that it will get results that are to your satisfaction, but we want to use the leverage that the committee has to encourage debate and to open doors, and to try to change attitudes and practices in the legislative framework in which we operate. I give you that assurance and I hope that the course of action that I outlined is acceptable to the committee.

Thank you for your patience. That concludes evidence taking from petitioners, but the committee must consider and make recommendations on a series of petitions.

### **Elderly People (Residential Care) (PE1023)**

**The Convener:** PE1023, which was lodged by Dr McNamara on behalf of the Highland Senior Citizens Network, calls on the Scottish Parliament to urge the Scottish Government to ensure that a greater proportion of residential care places for the elderly are provided and staffed by the statutory sector, particularly in rural areas. The petition was hosted on the Parliament's e-petition site between December 2006 and May 2007, where it attracted 77 signatures and three comments.

The petitioners are concerned primarily about the proposed transfer of seven care homes in the Highlands from the public sector to the private sector. The petitioners are concerned that the predicted demographic change in the elderly population will be felt more keenly by rural communities. They want strategies to be deployed to ensure that the public sector provides a higher proportion of care services for elderly people in rural areas.

**Rhoda Grant:** The petition has merit. I think that the care-home closures that were the basis of the petition have been put back. Highland Council changed its mind after Dr McNamara and others ran a good campaign, which was supported by local politicians.

However, the petition raises bigger issues about care provision, especially in rural areas, and about people's need to have a choice of care providers. Often, if it is left to the private sector to provide care in rural areas, care places are a long way from people's homes, which means that elderly couples are split up by huge distances when one of them goes into care. We have to consider how to ensure choice in care provision.

**The Convener:** There has been all-party consensus about addressing how we provide care, having moved on from the late 1980s agenda of care in the community, and the question whether the public or private sector should be the sole provider. There has been much debate about mixed provision and about factors such as demographics and location.

The recommendation is that we seek views from the Executive—or Government—the Convention of Scottish Local Authorities, Scottish Care, which represents care homes in the private sector, the Scottish Council for Voluntary Organisations and Age Concern Scotland. There is a range of partners that have a particular interest in the issue. I do not want to recreate the debate on the Sutherland commission or the wider debate about

what we do about care provision, but it would be helpful to write to those organisations.

There is a debate in many local authorities about the quality of the care-home sector—they cannot provide the amount of capital investment that is required. There is a broad template for standards through the Scottish Commission for the Regulation of Care and in some parts of Scotland there is a kind of market mechanism to fill the gap, but there might well be parts of Scotland where the market itself will not fill the gap effectively. I am sure that that debate is being had in the Highlands and Islands.

We could seek the views of the agencies and once we have got them, we can distil them and discuss how we will proceed. Are members happy with that?

*Members indicated agreement.*

### **Shrieval Appointments (PE1025)**

**The Convener:** The next petition is PE1025, by Derek Cooney. The petitioner has asked the Scottish Parliament to introduce legislation requiring the proposed appointment of new sheriffs to be advertised in the local press so that objections may be lodged. He also requests that any solicitor or advocate who is appointed as a sheriff be barred from sitting as a sheriff in the court area where he or she practised, in order to prevent possible conflicts of interest. Do members have any comments?

**Angela Constance:** To be candid, I struggled to understand the concerns that underlie the petition.

**The Convener:** "You're not alone", is the cry coming from around the room.

We could consider writing to other bodies who are involved. However, the petitioner's concerns could be addressed by the Judicial Appointments Board for Scotland's commitment to appoint candidates with integrity, fairness, impartiality and independence of mind. I seek guidance from members on how best to proceed.

**Nanette Milne:** I wonder what we could achieve if we did anything other than what you suggest.

**The Convener:** Are members minded to close the petition on the basis that such concerns can be raised with the Judicial Appointments Board for Scotland?

*Members indicated agreement.*

### **Elderly People (Provision of Care) (PE1032)**

**The Convener:** Petition PE1032 is similar in theme to PE1023, which we discussed earlier. Petition PE1032 is by Elizabeth McIntosh on

behalf of Renfrewshire Seniors Forum and calls on the Scottish Government to improve the standard of care provision for housebound elderly people. It calls for seniors forums in appropriate areas to be fully consulted in relation to the provision of care for the elderly. The petitioner has expressed concern about the current standard and level of residential care provision and wishes the views and experiences of elderly people to be considered when care services are being planned.

Do members have any suggestions on how best we deal with the petition? It has thrown up an issue for which the Scottish Commission for the Regulation of Care has core responsibility.

**Rhoda Grant:** We should refer the petition to the care commission, certainly in the first instance, because it is its responsibility to ensure the quality of care. We can second guess that, but if there is a body to deal with such issues, it should do so. After referring the petition to the commission, we could then close it. If issues emerge subsequent to that and in the course of any investigations, the petitioner could raise the matter with us again.

**Nanette Milne:** I agree with that. Having encountered the organisation during the previous session, I wonder whether there is merit in writing to Scottish care at home—which works in the private sector of non-residential care—because people in that division of Scottish Care might have strong views on the matter.

**The Convener:** We would not want to close the petition until we got those responses. It would also be worth writing to the Convention of Scottish Local Authorities to get its perspective on how local government might consult elderly people on the matter. What recommendations does it make to member authorities on consultation on provision of services to the elderly?

The care commission has legal responsibility for investigating concerns that are raised by members of the public or A N Other about quality of care. There are tight guidelines governing what is expected of assessments. It would be useful to see any relevant COSLA guidelines.

**Nanette Milne:** There are issues here. I was on the previous session's Health Committee when we did the care inquiry. We did not go into this problem in any depth, but there were pointers to it. We scratched the surface, and it is probably worth getting a bit more advice.

**The Convener:** Are those suggestions okay? The clerks have got that down. We are happy to write to the two or three agencies that have been mentioned.

## Ferry Service (Gourock to Dunoon) (PE1035)

**The Convener:** Petition PE1035, by John Rose, is on the Gourock to Dunoon ferry service. It calls on the Scottish Parliament to urge the Scottish Government to withdraw direct and indirect financial support for Caledonian MacBrayne with respect to the Dunoon to Gourock ferry service and to ensure full transparency in relation to the Government subsidy of ferry services.

**Rhoda Grant:** Ferry services are a huge bone of contention and something certainly needs to be done, although withdrawing subsidy is not the answer. The route was put out to tender with no subsidy and no tenders have been received, which suggests that the route should have some subsidy attached. How should that best be achieved? For those who are not familiar with the route, the service that is provided by Western Ferries (Clyde) Ltd runs outwith the town centres. It is the town centre ferry that is particularly important for foot passengers.

Perhaps we should refer the petition to the Transport, Infrastructure and Climate Change Committee for a better look. Someone needs to take a long, hard look at what sort of service would best support the people of Dunoon and how it can best be delivered using Government subsidy, tenders and the like. I know that there are issues of concern on both sides, so someone needs to conduct some scrutiny and cut through the various concerns.

**The Convener:** On what has been said about passing the petition to other committees, do we wish to take that action on PE1035 now, or should we make inquiries of the key players and elicit their responses before we decide whether it is an appropriate matter to pass to the Transport, Infrastructure and Climate Change Committee?

**Tricia Marwick:** In fairness, I am not clear about what all the issues are, and I suspect that most of us who do not have direct involvement in the matter are not clear about it. It would be a good idea for the committee, in the first instance, to seek views from the Scottish Executive, the ferry companies and the two local authorities. That way, we will probably develop a better and more informed view on where the petition should go thereafter.

**The Convener:** Is the committee okay with that recommendation?

**Rhoda Grant:** I do not disagree with that, but I think that the petition needs—

**The Convener:** Rhoda Grant has suggested that we consider referring the petition to the Transport, Infrastructure and Climate Change

Committee, if we deem it appropriate in the light of responses. Is that okay?

**Rhoda Grant:** Yes. That covers it.

**The Convener:** The clerks are reminding me that everything should be on the record, so I confirm that we will write to the Scottish Government—I am getting my words right—Western Ferries (Clyde) Ltd, Caledonian MacBrayne Hebridean and Clyde Ferries, and the Firth of Clyde Forum. The local authorities in the immediate area were also mentioned. Are members agreed?

*Members indicated agreement.*

**The Convener:** I hope that the clerk is now happy. There is a look of ecstasy on a clerk's face when that happens—it is a simple world.

### **Debating Chamber (Scottish Parliament Symbol) (PE1066)**

**The Convener:** I do not know whether there is any symbolism in the number of this petition—uniting all the disparate parts of the United Kingdom.

The petition, by John M Thomson, calls for the Scottish Parliament to consider and debate the displaying of the current symbol of the Scottish Parliament in a prominent position in the debating chamber. The petitioner notes that several Parliaments already have flags, coats of arms, a combination of both, or some other symbol of the country or state, and he considers that they serve to remind members of the people whom they represent.

Do members have any views? I think that it is fairly straightforward—we should write to the Scottish Parliamentary Corporate Body to ask for its views on consistency of presentation. Given that that is also part of the concern of the new Government, I imagine that we will get all-round support for the petition.

**Tricia Marwick:** Let me first declare an interest as a member of the SPCB. I think that we should write to it to ask for its views.

*Members indicated agreement.*

## **Current Petitions**

### **Methadone Prescriptions (PE789)**

16:00

**The Convener:** The next item of business is petitions that are already in the system. Petition PE789, by Eric Brown, calls on the Scottish Parliament to take a view regarding the need for regulation to ensure that prescribed methadone is taken by the patient while supervised by a suitably qualified medical practitioner.

In the past, the committee agreed to write to NHS Lothian and the Scottish Government, and the responses have been received and circulated to committee members. A further response from the petitioner Mr Brown has also been circulated.

Since the petition was last considered, the results of a UK Government-led working group on clinical management have been published for consultation, and revised guidelines are expected in the autumn. Do members have any views on how best to deal with the petition?

**Tricia Marwick:** In the past few months, the new Government has set out its views on some drug-related issues, including methadone and alternative methods of care for people who are addicted to drugs. Given the huge and increasing number of people who are dying from drugs overdoses, we need to consider those issues.

I suggest that we write to the new Scottish Government to ask whether it has any views on the petition. Things have moved on since we were in touch with the previous Executive. We should try to get up to date with the current thinking.

**The Convener:** We could ask for the Scottish Government's view on supervised consumption—that is the core of the petition. Are members agreed?

*Members indicated agreement.*

### **NHS (Provision of Wheelchairs and Specialist Seating Services) (PE798)**

**The Convener:** The next petition, from Catherine Mathieson, calls on the Parliament to urge the Scottish Government to resolve the current critical problems in the provision of wheelchairs and specialist seating services in the NHS through increased funding. It also calls for a review to address minimum standards, the scope of equipment provided and service delivery.

The petition was last considered by the previous committee on 31 January 2007. In the meantime, the report "Moving Forward: Review of NHS Wheelchair and Seating Services in Scotland" was

published in March 2006, and the Scottish Government responded to the recommendations on 19 January 2007. When the committee last discussed the petition, it agreed to consider the Scottish Government's response to the independent review in more detail. We now have that response, and a response from the petitioner is also in our papers.

As I said, the independent report was published in March 2006 and the Executive responded in January 2007. The recommendations that have significant additional financial implications will be considered as part of the spending review, and the spending review debate obviously is continuing under the new Government. Things will become clearer some time in the autumn. Additional central funding totalling nearly £2 million was allocated for the five NHS centres to undertake interim measures to reduce to acceptable levels waiting times for wheelchairs and specialist seating.

That is the background to the petition. Do members have any strong views on how we should deal with it?

**Rhoda Grant:** The £1.9 million was an interim measure. I know that the issue will be part of the spending review and that we will have to await its outcome, but is there merit in flagging up the issue to the new Scottish Government? We could simply say that, when the Government is considering the spending review, it should consider mainstreaming this kind of provision. It is a fair chunk of funding, but mobility is really important to people. Being able to get out and about is important, and if wheelchairs cannot be updated and upgraded, or indeed mended, an increased burden is placed on people who are already up against it.

**The Convener:** Do we wish to keep the petition open, with the proviso that we want further information; to close the petition before we get a response; or to wait until we receive a response on the inquiry?

**Rhoda Grant:** I am not suggesting that we keep the petition open; I am simply suggesting that we should flag up the issue. It has been flagged up before, but issues can sometimes disappear.

**The Convener:** The clerk tells me that, if the petition is closed, we cannot formally consider any response. We might receive a response, but we would not be able to bring it back to the committee for a summation.

**Rhoda Grant:** We are unlikely to receive a response before the spending review—and the review will be the subject of a parliamentary debate.

**The Convener:** Perhaps we should say that we have explored the issues contained in the petition,

but that a final point relates to the interim funding programme for the five NHS centres. We should say that we are closing the petition but feel that that final issue might be taken into account in the spending review when decisions are being taken on priorities for NHS spending. We can therefore formally close the petition. If individual MSPs still have a bee in their bonnet about the issue, they can still flag it up as individual MSPs or as members of the Health and Sport Committee.

### **Small-scale Energy Generation (PE837 and PE969)**

**The Convener:** The next petitions are PE837 from Neil Hollow and PE969 from Alan Kennedy. PE837 urges the Scottish Government to use its influence to ensure that by 2020 all buildings in Scotland are fitted with small-scale energy generation equipment; that such equipment is brought within permitted development rights; and that no charges for connecting to the grid will be made for such equipment.

PE969 calls on the Scottish Parliament to urge the Scottish Government to promote and encourage the development and installation of micropower renewable energy technology in business and domestic premises.

The committee agreed in January 2007 to invite the petitioners to comment on the energy action plan when it was published. The committee also agreed to reconsider the petitions in this parliamentary session. Since that time, a proposal for a member's bill on energy efficiency and microgeneration has been lodged by Sarah Boyack MSP, and it is likely to go to the Economy, Energy and Tourism Committee for scrutiny.

Given the subject matter of the petitions, my recommendation as convener is that we refer the petitions to the committee that considers the bill, as it will be taking evidence.

**Members indicated agreement.**

### **A77 (Southern Section Upgrade) (PE859)**

**The Convener:** Petition PE859 is from Sheena Borthwick, and asks the Scottish Parliament to urge the Scottish Government to upgrade the southern section of the A77 between Ayr and Stranraer. In November 2006, the committee agreed to seek comments from the petitioner on the update that had been provided by the then Executive in relation to progress on the A77 Maybole project, which covered some issues raised in the petition. Those comments have been provided. There has also been a recent parliamentary question and answer on the Maybole bypass, on which the petitioner has made no comment.

How should we proceed?

**Rhoda Grant:** Should we just close the petition?

**Tricia Marwick:** I think that we should. The petitioner has chosen to make no further comment. In those circumstances, we should close the petition.

**The Convener:** Okay.

### **European Drinking Water Directive (PE929)**

**The Convener:** Petition PE929, from George Packwood, calls on the Scottish Parliament to review the implementation of the European Union drinking water directive in relation to the replacement of lead piping in public and private sector domestic properties to ensure that drinking water in Scotland has zero lead content.

In January 2007, the committee agreed to write to COSLA and Scottish Water on the issues raised in the petition. We have received their responses, on which the petitioner has, in turn, commented. Do members have any views on how we should deal with the petition?

**Rhoda Grant:** I note that an option for action is to refer the petition to the Rural Affairs and Environment Committee. Given the variations in the responses that we have received and the seriousness of the petition's subject—after all, lead poisoning is really serious and can have a dramatic effect on people's health—it might be worth following that suggestion. I am not sure whether we can do any more with the petition.

**The Convener:** I do not know whether our committee can really deal with the substance of the petition, apart from referring it to the Rural Affairs and Environment Committee. Do we want to do that? Compared to a number of petitions that we could refer to other committees, it will not require a lot of work.

**Robin Harper:** The petition asks only for a review.

**Nanette Milne:** Given that doing anything about the problem will probably have resource implications, it might be best for the subject committee to consider the petition before any recommendations are made.

**Tricia Marwick:** In seeking views and receiving responses, the committee has gone as far as it can go with this petition. We need to decide whether to close it completely or whether it should be referred to another committee. My feeling is that we should close it.

**The Convener:** Do we have the power to close the petition, even though it has been referred to another committee?

**Peter McGrath (Clerk):** You can either close or refer it.

**The Convener:** So it is one or t'other. I sense that members have different perspectives on that matter.

**Rhoda Grant:** Could we ask the subject committee for its views? If its work programme does not allow it to consider the petition, we will simply come up against a brick wall. On the other hand, if it has scope to examine the matter, it might be useful to refer the petition to it.

**Peter McGrath:** There are two options: either we close the petition, but pass it to the subject committee for reference, or we refer it formally to the committee. At that point, the decision on what to do with the petition would be entirely up to that committee.

**The Convener:** I think that we should follow the former option.

The recommendation is that we close the petition on the grounds that this committee has gone through its appropriate processes. However, the Rural Affairs and Environment Committee might wish to take into account the petition's call for a review of the matter. I presume that, at some stage, senior civil servants, agencies and ministers will be aware of the implications of breaching the EU directive.

Are members happy with the option for action?

*Members indicated agreement.*

### **Inland Water (Speed Restrictions) (PE964)**

**The Convener:** Petition PE964, from Kevin Lilburn and Fairplay Loch Lomond, is on speed restrictions on inland water in Scotland. We have received responses from a variety of people whose views we sought.

The petitioner has been given the opportunity to raise his objections to proposed byelaws at a national level through the public petitions system. The statutory process has been completed and the byelaws have now been approved and implemented. Since their implementation, the petitioner has been given the opportunity by the Public Petitions Committee to comment on the new byelaws. However, to date, he has not done so. Given our previous discussion, the fact that the petitioner has not sought to take the matter forward and the fact that the byelaws are now in place, the petition should be closed. Are members agreed?

*Members indicated agreement.*

### **Leisure Facilities (PE990)**

**The Convener:** Petition PE990, from Colin McCall and Derek Rosie, on behalf of Penicuik Community Education Association, calls on the Parliament to review the provision of community

leisure facilities and emanates from concerns about the closure of local community facilities in the Penicuik area. The committee agreed to invite the then Executive to indicate whether it intended to review the provision of such facilities throughout Scotland.

The committee noted a lack of response from the Scottish Executive on the petition and agreed to write to the relevant minister on the subject. Funnily enough, we are still waiting for a response from the minister—obviously, he is taking the word “leisure” very literally.

The recommendation in our briefing notes, which is sensible, is to note the continued absence of a response to the petition and to invite the Minister for Communities and Sport to appear before the committee to explain whether the Scottish Executive intends to review the provision of community leisure facilities throughout Scotland. I do not know whether that recommendation is too severe, but inviting the minister to appear before the committee could be fun.

16:15

**Tricia Marwick:** At its meeting on 20 March 2007, the committee noted the lack of a response to the petition from the relevant minister—that was a minister from the previous Executive, of course. We have been told that Stewart Maxwell has been advised of the situation and that the petition was scheduled to be considered today. When was he advised of the situation? In light of the answer to that question, we may wish to consider whether he has had enough time to respond to the petition before we decide to bring him before the committee.

**The Convener:** To address your concern, it might be useful to get a summary paper from the relevant Government minister before we decide whether it would be suitable to get them to address the matter with us. We will find out what we can about that. Would that be a better course of action?

**Tricia Marwick:** It seems to me that the tone is that, because ministers have not replied, we should call Stewart Maxwell.

**The Convener:** We might otherwise have to wait for a long time.

**Tricia Marwick:** Exactly, but I want to establish when the new minister was notified about the petition. In fairness, it may be better to write to him to ask for his views on the petition before we decide what further action to take.

**The Convener:** I am happy with taking that course of action, which would be sensible. I wonder whether the clerk can clarify the timings.

**Peter McGrath:** An e-mail was sent to the Minister for Communities and Sport, Mr Maxwell, on 12 July. A follow-up letter was sent to him on 6 August.

**The Convener:** I have been a minister and I know what ministers’ offices are like. I am therefore willing to give them slack in such matters, because they sometimes do not even know that such things are in the system.

Why do we not ask for a summary paper or whether a position has been adopted? That may show that senior members of Government—whether of the former Executive or the new Government—have not given much thought to the issues involved. We may be given a wee benchmark, after which, perhaps, we can consider the matter. I am happy with that recommendation.

### **Affordable Housing (Subsidy) (PE1002)**

**The Convener:** Petition PE1002, from Tina Wilson, calls on the Scottish Parliament to urge the Scottish Executive to prevent private sector developers from receiving public subsidy in relation to the provision of affordable housing. The committee has sought clarification from Communities Scotland on the extent to which private sector developers receive such subsidies. Communities Scotland has replied, but we have received no comments on that response from the petitioner. In light of the previous discussions, are members happy to close the petition?

**Members indicated agreement.**

**The Convener:** Funnily enough, everybody is now discussing affordable housing, which is quite an achievement.

### **National Tourism Website (Public Ownership) (PE1015)**

**The Convener:** Petition PE1015, by Alan F Keith, on behalf of the Association of Dumfries and Galloway Accommodation Providers, calls on the Scottish Parliament to urge the Scottish Executive to return the national tourism website, call centre and booking system to public ownership. I had better declare an interest: I inherited responsibility for the matter for a brief but noble and much remembered period—the history books will record it wonderfully—when I was Minister for Tourism, Culture and Sport.

At its meeting in November 2006, the committee took evidence from Mr Keith and Elizabeth Chambers, and agreed to seek views from the various organisations that are mentioned in our briefing notes. Members have had a chance to consider the correspondence and the responses to it.

The case for returning the national tourism website, call centre and booking system to public ownership was up for discussion. As someone who has been involved in the matter, I can testify that there are continuing issues. The new minister has had discussions with the tourism sector about those issues, among other things. How should we address the concerns raised by the petition?

**Rhoda Grant:** With regard to the petition's aims, there does not appear to be a huge appetite for bringing the system back into public ownership. However, issues of concern have been raised and we should raise them with the minister and close the petition. The insight that we gained is almost an add-on to the petition.

**The Convener:** It strikes me that this issue bubbles up every so often. The minister, VisitScotland and the other major players in the tourism industry need to address it. We are never going to be able to satisfy everybody, and certain parts of the country have bigger problems than others, but it would be best to ask for a paper from the minister with responsibility for this matter to tell us what action, if any, has been taken to address the issue and how satisfied the minister is with progress to date.

Do we agree to close the petition on that basis?

**Members** *indicated agreement.*

## Referred Petitions

16:20

**The Convener:** Item 5 concerns a short paper from the committee clerk, relating to a small number of petitions that, having been referred to subject committees by the previous Public Petitions Committee, were still current at the time of dissolution. They now need to be re-referred so that new subject committees can scrutinise them.

The paper suggests that PE749, which was being dealt with by the Environment and Rural Development Committee, be referred to the Rural Affairs and Environment Committee; that PE799, relating to an area of coast at Lamlash Bay, which was being dealt with by the Environment and Rural Development Committee, be referred to the Rural Affairs and Environment Committee; that PE853, relating to legislation on educational facilities for children with special needs, which was being dealt with by the Education Committee, be referred to the Education, Lifelong Learning and Culture Committee; and that PE872, relating to a presumption against the closure of rural schools, which was being dealt with by the Education Committee, be referred to the Education, Lifelong Learning and Culture Committee.

The paper also suggests that PE903, on planning policy with regard to ecovillages, which was being dealt with by the Communities Committee, be referred to the Local Government and Communities Committee; that PE954, on the care 21 group's report, which was being dealt with by the Health Committee, be referred to the Health and Sport Committee; that PE956, on the Conservation (Natural Habitats, &c) Regulations 1994, which was being dealt with by the Environment and Rural Development Committee, be referred to the Rural Affairs and Environment Committee; that PE982, on ship-to-ship transfers of oil in the Forth estuary, which was being dealt with by the Environment and Rural Development Committee, be referred to the Rural Affairs and Environment Committee; and that PE1011, which was being dealt with by the Environment and Rural Development Committee, be referred to the Rural Affairs and Environment Committee.

Do members agree to those suggestions?

**Members** *indicated agreement.*

**The Convener:** I thank the petitioners and members for their contributions to today's meeting.

*Meeting closed at 16:23.*

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