

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 4 March 2008

Session 3

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## PUBLIC PETITIONS COMMITTEE

4<sup>th</sup> Meeting 2008, 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)  
\*Nigel Don (North East Scotland) (SNP)  
\*Rhoda Grant (Highlands and Islands) (Lab)  
\*Robin Harper (Lothians) (Green)  
\*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 :

Libby Anderson (Advocates for Animals)  
Jackie Baillie (Dumbarton) (Lab)  
Tony Doherty (Diabetes UK Scotland)  
Stephen Fyfe (Diabetes UK Scotland)  
Lesley Learmonth (Enable Scotland)  
Joan Mulroy (Enable Scotland)  
Louise Robertson (League Against Cruel Sports)  
Nicola Smith (Enable Scotland)

### CLERK TO THE COMMITTEE

Fergus Cochrane

### ASSISTANT CLERKS

Franck David  
Zoé Tough

### LOCATION

Committee Room 2



## Scottish Parliament

### Public Petitions Committee

*Tuesday 4 March 2008*

[THE CONVENER *opened the meeting at 14:01*]

### Decision on Taking Business in Private

**The Convener (Mr Frank McAveety):** Good afternoon, everyone, and welcome to the fourth meeting this calendar year of the Public Petitions Committee. As always, I ask all members of the Parliament and all members of the public who are present to switch off any mobile phone or electronic device. We have a standing apology from Angela Constance; I welcome John Wilson, who is her substitute.

The first agenda item is to decide whether we wish to take in private item 4, which is consideration of a paper by the clerk on the committee's forthcoming work programme. We always try to hold as much as possible of our business in public, but because of the sensitive nature of some of the discussion that we will have under item 4, which will include consideration of potential witnesses and how we wish to organise our business, I propose that we take it in private. Is that agreed?

**Members indicated agreement.**

## New Petitions

14:02

**The Convener:** Our next item is consideration of new petitions. As members will have noticed, there are no current petitions on today's agenda. That will allow us to take evidence from petitioners on three petitions rather than on just two, which is our normal practice. I do not anticipate our meeting being as long as our extremely long meeting of a fortnight ago.

### Advocacy Services (PE1126)

**The Convener:** PE1126 was lodged by Lesley Learmonth and Joan Mulroy on behalf of Enable Scotland. I welcome Lesley and Joan, who are accompanied by Nicola Smith. The petition calls on the Scottish Parliament to urge the Government to consider and debate the need to amend legislation to ensure that people in Scotland who have learning disabilities have an enforceable right to the services of an independent advocate and that such services are adequately funded.

We received the petition when Lesley Learmonth and others came to the Parliament to present it to us directly. I understand that Lesley will make the opening statement, which might well be added to by Nicola or Joan. Do not worry about it, Lesley—it is an experience that we all go through. Let us hope that we have a good discussion on your petition.

**Lesley Learmonth (Enable Scotland):** Thank you for asking us to come here today to talk about our petition. I want to tell you about my experience of having an advocate and how it changed my life.

I wanted to move into my own flat because it is really important for me to be independent. I got an advocate called Patricia from the Speak Out Advocacy Project. She helped persuade a housing association to find me a flat close to where my mum and dad stay. When I got my flat, it was a bit of a mess. Patricia took photos and gave them to the housing association. She also wrote to my MP and got him out to see my flat. She worked with my mum and dad to get the housing association to fix the dampness. The association put in a new kitchen at the right height for me.

Patricia helped me to get a group of people together to work out what I wanted and how to make it happen. That was my circle of support. I asked the people who I thought would know me best to join the group. They helped me to write a plan that said what I wanted and what things were important to me. We talked about the kind of support that I would need, and they helped me get

a direct payment from the council to pay for my support.

It is good to have my own space, and Patricia has helped me to make it work. I wanted to start this campaign because I know that it can be hard for people with learning disabilities to speak up for themselves. I also know how my advocate helped me to change my life. I have collected hundreds of signatures to show that other people agree with me. I hope that the Scottish Parliament will ensure that people who need the support of an advocate get it.

**The Convener:** Well done, Lesley.

**Joan Mulroy (Enable Scotland):** Having heard Lesley's story, members will agree that it is a very positive example. Access to an independent advocate at a crucial time of transition in Lesley's life made a great difference. Lesley approached an advocate with one issue—basic housing needs—but that issue encompassed many elements that were important to her quality of life. Lesley's independent advocate worked with her on her personal development and to improve her skill-gathering abilities. She arranged the correct social support and on-going community involvement, so that Lesley, having gained her independence, would not become isolated. There were also financial and personal safety and security issues. Lesley's advocate helped her to build up confidence and self-esteem, which was important.

By her own admission, Lesley has been very lucky, as she has always had a good network around her. I have seen her change from quite a shy young woman into a working householder who values her independence. She is an effective self-advocate and a considerate person who wants to think about other people who are not in the same loop. I should add that she has an enviable social life. Thanks to the support that she has received, she is not excluded or isolated, but she wants us to think about other people who do not have such benefits.

I will offer members an insight into how and why our petition was instigated and introduce them to another life that has been touched by the advocacy experience. In 2000, when this was still a young Parliament, "The same as you? A review of services for people with learning disabilities" was published. The report made 29 recommendations that set out an exciting vision for people with learning disabilities. That vision included access to independent advocacy. Several of those recommendations have borne fruit and people have benefited from them. Unfortunately, in 2008, there is a fear that the vision of advocacy is becoming slightly blurred. Equitable access and sustainable advocacy provision seem to be under threat. We have a concern that the threat may become greater as, under the local government

concordat, different impacts are felt in different parts of the country.

We also feel that some of the provisions on learning disability in the Mental Health (Care and Treatment) (Scotland) Act 2003 are vague. The fact that the act refers to a "mental disorder" unhelpfully perpetuates a negative public confusion about what learning disability is and how it can be perceived. However, that is the only funded route on which people with learning disabilities can call to enforce their legal right to advocacy.

More recently, the learning disability and advocacy movements were left slightly disappointed when the Adult Support and Protection (Scotland) Act 2007 failed to include an enforceable and funded right to advocacy. We believe that some sectors of the vulnerable people whom the act was intended to benefit have been let down. We urge the committee and the Parliament to remember that the good guidance in "The same as you?" is dependent on good legislation following it through. We would like the issue to be considered as one entity.

If you will bear with me, I will introduce you to a lady called Mary. Mary has no family and very few friends. In my work as an independent advocate, I met her when she was referred to me by a senior social worker who had been contacted after the police had been called when Mary's shopping was stolen from her motorised scooter. Apparently, Mary was far from amiable or friendly when the social worker called. She did not trust the social worker and she certainly did not want to be told how to run her life. However, the social worker persevered and Mary agreed to meet an independent advocate, which happened to be me.

I found Mary to be a very interesting and aware lady. She did not hold back. She made it quite clear that she felt that, throughout her life, she had been given the wrong support and that the system had let her down. We chatted for a while and I left that day with a list of issues. Mary also gave me a considerable brief to arrange a meeting in which I was to support her in explaining what she felt needed to happen and how she wanted her general safety and quality of life to be improved.

After putting plans in motion, I called the following week to go over things. When I arrived at the door, I found a very distressed lady. When I entered the living room, I found that she was surrounded by piles of paper and red final demand letters. When I asked whether I could help, she related to me a story that had started some years before.

It seems that Mary had had a friend who needed a new car. He asked her to apply for a loan in her name that he would repay. As an isolated lady

who was eager to retain this friendship and relationship, she said yes. She thought that he would take her out in this nice new car and she would no longer be stuck in the house. The friend helped her to make an appointment with the bank and she got the loan. When she walked out of the bank with several thousand pounds in cash, she promptly went over to the car park to meet her friend and hand it over.

Mary saw this friend only a few times after that and she received only a couple of repayments to service the loan. She tried to use her money to pay off the debt over and above what she needed to live on. She ended up in a spiral of debt. We spoke about the issue at some length, but Mary refused to let me contact the police for fear of repercussions. As a lady on her own, she was very afraid that things would come back to her.

However, Mary agreed that I could help her to speak to the bank to explain why she was facing such difficulties. An interesting but sad point is that Mary told me that when the lady at the bank went through the details of the loan with her—anyone who has ever taken out a bank loan will agree that such documents are not the easiest to understand—Mary understood the term “interest” to mean that she had shown an interest in taking out a loan. Therefore, Mary did not pursue the issue any further.

14:15

A few months and several letters and meetings later, the bank wrote the loan off, including all the accrued interest, which was significant—the bank was very understanding and accommodating. I am happy to report that Mary is debt free. She now has home support that helps her to budget and to keep her house and she is looking forward to having more social support through accessing the independent living fund. That is an example of independent advocacy at work when the system has not clicked in or people feel unable to open up to the system. When people are out of the loop, independent advocacy can certainly make a difference, as it did for Mary. Before her crisis, Mary was vulnerable, frightened and isolated. I am relieved to tell you that the situation is coming out all right in the end. I thank members for listening to that presentation.

**The Convener:** Thanks. We are joined by the constituency member, Jackie Baillie. Do you want to add something before we have a shared question-and-answer session?

**Jackie Baillie (Dumbarton) (Lab):** I thank the convener for kindly offering that opportunity. I declare an interest, not least because I am the convener of the cross-party group on learning disability, because I have a long association with

Enable Scotland and because Joan Mulroy is my constituent.

I cannot add much to what has been said. At its simplest, having an advocate is about having a person on someone's side to help them take key decisions at key points in their life. I like to think that, in a small way, MSPs are advocates too. However, with 50,000-plus constituents, providing the service that we know that independent advocacy provides sometimes becomes difficult.

Having an advocate enables people to cut through the bureaucratic maze of different organisations and different people who are all connected with one another. That is difficult enough for us to manage, never mind anybody else. The danger is that people fall through the gaps and are not helped at key points, when they need extra help, as has been illustrated.

It is worth recording that most advocates are volunteers. The service largely exists on a shoestring and is not equal throughout Scotland. It is undervalued. I would like something that puts advocacy where it should be. People who have a clear need should have a specific and enforceable right to advocacy that is properly resourced. I hope that the committee will do something with the petition.

**The Convener:** I thank Jackie Baillie for her helpful comment. Committee members will now comment or ask questions. The three folk at the top table should feel free to answer at any time when they can.

**Robin Harper (Lothians) (Green):** I, too, have an interest to declare, as Jackie Baillie's vice-convenor on the cross-party group on learning disability. I will keep my remarks brief: all that the committee has to do is imagine where Mary might have been without advocacy.

**Joan Mulroy:** Sorry—could you repeat that?

**The Convener:** Robin Harper commented on the story about Mary's circumstances. He said that, without the intervention of advocacy, the spiral would have continued.

I want to ask a few questions, but other members want to speak.

**Rhoda Grant (Highlands and Islands) (Lab):** The petitioners want amendments to legislation, some of which is quite recent. I understand from the evidence that people with learning disabilities can access advocacy under the Mental Health (Care and Treatment) (Scotland) Act 2003, but that the Adult Support and Protection (Scotland) Act 2007 does not go as far as entitling people to advocacy. Is that right?

**Joan Mulroy:** Yes.

**Rhoda Grant:** So you want the 2007 act to be amended, because using the earlier legislation is a roundabout route. Amending the later legislation to give adults with learning disabilities a right would be easier. That clarifies the situation for me.

**Nanette Milne (North East Scotland) (Con):** From ignorance, I ask the petitioners to tell me a little more about the practicalities of accessing an advocate. I know what it all means, but I have not got in touch with someone who provides advocacy services. Do many people volunteer to give such help? If the petitioners do not mind, I ask them to fill me in with some of the detail.

**Joan Mulroy:** I can certainly clarify some of that from the area in which I live but, as Jackie Baillie said, provision is patchy throughout Scotland. Being a national organisation, that comes back to us all the time. My area is Lomond and Argyll, which spans from Clydebank all the way to Islay and Jura, which gives quite a broad access. We are pretty well represented throughout that area. However, in other areas, I hear many older carers ask where they can go to get an advocate.

Provision depends on the geography—where somebody lives, how understanding the local authority is of the importance of advocacy and how it values the service. That relates to my concern that, under the local government concordat, provision might become even patchier and even more different in different areas.

**Nanette Milne:** Is initial contact made via the local authority social work department?

**Joan Mulroy:** Referrals can be self-referrals or can come through the social work department or from a family member. There are all kinds of different avenues and we always address a referral. Because of funding constraints, my project has three criteria. We can help people with mental health issues, those with a learning disability and the frail elderly. However, to be honest, there are ways of making people fit those criteria. There is such a demand for advocacy that we have to ensure that the criteria are met to provide a service for as many people as possible.

**Nanette Milne:** There is clearly a practical gap.

**Joan Mulroy:** Absolutely.

**Nigel Don (North East Scotland) (SNP):** I thank you ladies very much for doing what few people who come before the committee do: saying something other than what is on the paper when you speak to us. You would be amazed at the number of people who tell us what we already know. Well done.

I have one simple question to get a feel for how big the problem is. How many times would the resource need to be multiplied for it to be adequate? I will not quote your answer back at

you. Do we need twice as many people, 10 times as many or 2,000—if that is different from 1,000, which it might not be?

**Joan Mulroy:** It is difficult to gauge the national need. In my area, we have a well-established advocacy organisation, which is held in quite high regard. We could always do with more funding; there are no two ways about that. In some areas, people manage on a shoestring and depend very much on volunteers. We have quite a large pool of volunteers. They are invaluable, but volunteers cannot attend mental health tribunals, for example, and do their clients justice. There comes a time when the paid advocates are necessary. We filter down training. We do all our training in-house to cut costs so that the resources are diverted into the advocacy service, as opposed to big events.

**Nigel Don:** You clearly find it difficult to answer the question. I understand that, but I am still hoping that you might.

**Joan Mulroy:** Do you mean the question about how many more people we need?

**Nigel Don:** Yes. How big is the factor? Perhaps Jackie Baillie has an idea. I am just trying to get some feel for what we are talking about.

**Joan Mulroy:** Do you have any idea, Jackie?

**Jackie Baillie:** To do the question justice, it would be necessary to undertake a scoping exercise that examined what provision exists throughout Scotland. I hope that the Government would consider doing that, particularly given the recommendations in “The same as you?” If we had that scoping exercise, we would get an order of magnitude that would make some sense.

**Nigel Don:** So we are reflecting the fact that we do not know.

**Jackie Baillie:** Yes.

**Nigel Don:** Thank you.

**The Convener:** Jackie Baillie touched on “The same as you?” I got the impression from what the petitioners said that there has been a diminution of the openings that that report’s recommendations made for the individuals that the sector deals with. How do we reignite that debate from where the petitioners are?

A couple of members have identified issues with the legal framework. When the petitioners have been able to help a client with a legal issue, has it changed the attitudes of some of the providers because the petitioners have invoked the legislation more than otherwise?

**Joan Mulroy:** Yes.

**The Convener:** That leads to a question about the service provision in Scotland. There has not



been a scoping exercise. We all hope that one can be done and there is still time to do it. There is also uncertainty about how resources are allocated to health boards and local authorities in partnership. How can Enable, as a national organisation, influence that? Those are the three points that I am trying to get at. Essentially, how do we unite around the ambitions of “The same as you?” and ensure parity in more parts of Scotland, given the current unevenness of experience and resource allocation?

**Nicola Smith (Enable Scotland):** That might involve looking at the legislation again to give people a stronger right. Part of the problem is the fact that there is a lot of confusion about what access to advocacy means. For example, is putting someone on a waiting list for six months enough to meet the obligation under the legislation? Or, if someone speaks to an advocate but they tell them, “Sorry. That is outwith our area of expertise. We cannot help,” is that access to advocacy? In neither of those situations is the person getting a remedy. If an exercise were conducted to look at the legislation again, to see how it could be strengthened, that would probably go some way towards taking forward the aspirations in “The same as you?”

**The Convener:** In the absence of timetable space for that—although there would be a lot of space for legislation if any were introduced—the second point would be about the guidance that is issued by the health department and the social services, from a Government point of view, in terms of allowing the framework. A lot of the recommendations in “The same as you?” are about creating the information so that people can make an informed choice and know where to go. Whether or not they would get the satisfaction that they sought, at least they would know where to go. Is there something that we could be in dialogue with Government about, which might hasten an improvement in the quality and range of the services that exist at present?

**Joan Mulroy:** A lot of work has been done—we are now in 2008 and “The same as you?” was published in 2000. However, as I mentioned in my presentation, people need to know what the recommendations were and what legislation has followed. Although the legislation touches on some of the recommendations, they are not necessarily knitting together forcefully. There is a lot of scope for tick boxes rather than firm action, and we need to tie the two together. The recommendations gave people an awful lot of hope. Unfortunately, because of the patchiness of provision throughout the country, we cannot say that the recommendations and the legislation have consolidated as we would have liked.

**The Convener:** Do members have any other comments or observations?

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I ask for clarification. The problem seems to be that only some of the recommendations were put into legislation. That has left a sort of loophole for individuals to fall through. At the top of the tree, who is responsible for providing the advocacy services in the first place? Is any organisation deemed to be the ultimate authority?

**Joan Mulroy:** There is a Scottish Independent Advocacy Alliance. We are eight years into “The same as you?” and access to advocacy, and we could benefit from having more input from the alliance as well. Because advocacy is funded so disparately, we do not have any firm guidelines that would meet all the funding criteria in every area. As Jackie Baillie said, that can lead to a devaluing of advocacy. In some areas, if advocacy is being delivered poorly it would be better for it not to be delivered at all. Where it is working well and is delivered well, however, it is invaluable.

**John Farquhar Munro:** Surely, the social work department would need to advise the individual that there is an organisation—call it what you will—

**Joan Mulroy:** They do not need to, but they are encouraged to.

**John Farquhar Munro:** I think that some work is required there. How would an individual with learning difficulties realise that there is a body to lean on?

**Joan Mulroy:** I work in adult training centres and involve myself in social networks and community settings where there are people with learning disabilities, and we let people know. We do a lot of the promotion work as well as the advocacy work.

14:30

**Robin Harper:** We could, and should, write to the Scottish Government, the Scottish Independent Advocacy Alliance, NHS Quality Improvement Scotland and the Scottish health council. Would our witnesses suggest anybody else that we could communicate with?

**Nicola Smith:** One of the big issues that we are concerned with is people with learning disabilities in the criminal justice system receiving the support that they need. The Scottish Prison Service may have some information about the advocacy projects that are available.

**Joan Mulroy:** The Mental Welfare Commission for Scotland would back that, because it comes

across a lot of people with learning disabilities in custody.

**The Convener:** Is there a fear that, if there was a quality independent advocacy service, it would open up a high level of demand on social work services? Is there—to use the best euphemism I can find—a reticence to encourage that because of the challenges that will always be in the social work service budget, or am I being unfair in that suggestion?

**Joan Mulroy:** No, although from my experience I would say that, thankfully, that idea is probably a few years out of date.

**The Convener:** Like my taste in music.

**Joan Mulroy:** The social work departments that I have worked with have seen the benefits—both financially and in relation to quality of life—and they are often the first to recommend that an advocate gets involved.

**The Convener:** I am trying to pull together the way forward from the contributions. Robin Harper suggested four organisations to contact, and you have helpfully suggested some more. We will take that on board.

In going to the next stage, there seem to be three different levels. First is the role that guidelines and guidance can play at both a national and local level. Secondly, there is a reasoned debate about a scoping exercise that can be undertaken—it may take time but it is worth exploring the option. Third is the question whether there is any opportunity to tighten up the legislation, or at least to address more effectively the concern about interpretation, and how that can benefit individuals who are looking for more effective advocacy services.

Are there any other suggestions about how to take the issue to the next stage?

**John Wilson (Central Scotland) (SNP):** It might also be useful to write to Citizens Advice Scotland. It does a lot of casework, so we could ask for its views on how advocacy work could assist it. I am sure that, if adequate advocates were available, CAS would refer individuals to that service rather than deal with the piecemeal work that they currently do with many of their clients. That is another organisation that we could write to for further information.

**The Convener:** That is helpful.

**Nanette Milne:** Perhaps Rhoda Grant can help me. Is the Health and Sport Committee considering examining the workings of the Mental Health (Care and Treatment) (Scotland) Act 2003? It is now five years since it was passed, and I wonder whether there are any plans to examine it. There might be scope in any such inquiry.

**Rhoda Grant:** We are looking at an inquiry into mental health. It is in the distant sun, but it might be worth considering.

When we ask the Scottish Government for its comments, can we ask whether there is any stipulation in the concordat about advocacy services? I know that Highland Council is cutting not only services to people with learning disabilities but advocacy services. Let us be honest: those services might be seen as a weak target when budgets are tight. However, we must be careful to ensure that the people being targeted are not those who are less likely to speak up for themselves. Removing the people who would speak up for them creates a problem. We need to see whether the Government will tackle that through the concordat.

**The Convener:** Jackie, did you want to contribute?

**Jackie Baillie:** I had a tiny point to make, but Rhoda Grant has made it. The single outcome agreements are currently being negotiated with local authorities. I understand that those negotiations are to conclude in June. They represent the most appropriate opportunity to clarify that the Government intends to make advocacy for people with learning disabilities a priority at local authority level within the single outcome agreements.

**The Convener:** We have had a good opportunity to discuss the petition. I thank Lesley Learmonth in particular for her contribution to the debate, and Joan Mulroy and Nicola Smith for the support that they have provided. I also thank the constituency member, Jackie Baillie, who probably owes me something generous.

**Jackie Baillie:** No. You still owe me.

**The Convener:** I am simply making up for my past misdemeanours, Jackie. Do not worry.

We have had a good discussion. The witnesses can tell from it that we are keen to help where we can. Obviously, we will explore the issue. A paper will be brought to a future committee meeting, and we will consider the responses that we have received. The witnesses will be informed throughout the process of the nature of the responses that have been received. In the intervening time, they can supply us with additional comments or further observations if they wish to do so. I hope that we will explore the critical issues that they have raised this afternoon. I thank them for their time.

**Joan Mulroy:** Thank you.

## Diabetes (Self-management Plans) (PE1123)

**The Convener:** The next new petition is PE1123, by Stephen Fyfe, on behalf of Diabetes UK Scotland. The petition calls on the Scottish Parliament to urge the Scottish Government to ensure that all national health service boards provide the necessary resources to promote and deliver diabetes self-management plans to all people with diabetes.

I welcome to the meeting Stephen Fyfe and Tony Doherty. You have approximately three minutes for an opening statement. You should bear in mind what Nigel Don said earlier. We have already received submissions; you may wish to add to what has been said.

**Stephen Fyfe (Diabetes UK Scotland):** Of course.

Good afternoon. Thank you for considering the petition. We are delighted to be here to present our case.

First, I want to introduce Tony Doherty. Tony is a nurse with type 1 diabetes. A few years ago, he attended a dose adjustment for normal eating—DAFNE—course for people with type 1 diabetes. He then became a DAFNE educator in Cambridge. For the past three or four years, he has been back in Glasgow, where he has delivered the DAFNE course in the south side of the city with great success.

I would like to say a little about the petition's beginnings. The motivation for it was the Diabetes UK Scotland volunteer conference that was held in Dunblane last year. Delegates at that conference heard about the great personal successes that had resulted from type 1 and type 2 diabetes courses. However, it was found out on the day that only a small proportion of people at the conference had been on those courses. The conference also heard about survey and focus group work that Diabetes UK had done in conjunction with NHS Quality Improvement Scotland. We found that only one in 10 people who had taken part in those focus groups and surveys had heard of the courses in question and that only one in 20 had been on such a course. The conference agreed that more type 1 and type 2 diabetes courses should be provided throughout Scotland and that they should be available to everyone with diabetes.

I will give a quick summary of the state of diabetes in Scotland. Every year, up to 13,000 people are diagnosed with diabetes here. Almost 200,000 people already live with it. It is estimated that 400,000 people could be living with it by 2020. The number of people who are being trained in diabetes courses is not catching up with the rise in

the number of people with the disease; indeed, there is quite a large shortfall in that respect.

As members know, diabetes is a serious disease that affects all parts of the body. Two out of three of those with diabetes who die each year could be dying prematurely and needlessly as a result of diabetic complications. More than 20,000 people in Scotland who have diabetes could be dying from coronary heart disease every year. That is 15 per cent of all coronary heart disease deaths. Heart disease is the leading cause of death in people over the age of 30 who have diabetes. Diabetic ketoacidosis is the leading cause of death for diabetic people under the age of 20. The majority of those deaths are preventable.

Thankfully, and fortuitously, the *British Medical Journal* produced a report two weeks ago that compares the structured education courses that we are asking for with unstructured education. It found that structured education courses reduce the risk of coronary heart disease, lead to modest weight loss, reduce smoking and increase physical activity. Course participants also understand their diabetes better and report fewer symptoms of depression.

We are asking for something new. Some of the policy arguments have been made and we are looking for more support to get the policies delivered in local areas. From "Delivering for Health" to "Better Health, Better Care: Action Plan", support for self-management has been seen as the key to improving the health of people who are living with long-term conditions. The long-term conditions strategy, which is currently being developed by the Scottish Government health department and the Long Term Conditions Alliance Scotland, has a self-management strategy at its centre.

According to data collected by NHS QIS and being launched in a report this evening, 12 out of 14 health boards deliver some type of formal education to newly diagnosed people, but not all those courses are validated, formal and structured. According to the same report, continuing education for people who are further on in their diabetes is being provided in nine of the 14 health board areas.

Health inequalities exist: the courses are available only in certain areas and to the newly diagnosed. We are asking for some recognition that diabetes is a complex condition that it is possible to deal with but "deadly to ignore". Supporting the self-management of people who have diabetes is critical to improving individual health outcomes. There is clear evidence that demonstrates that structured education delivers better health outcomes for people who have diabetes. Although the commitment to supporting

self-management is highly visible in Government policy, it is not yet embedded in Scotland's health care culture, so we ask the Scottish Government to ensure that all NHS boards provide the necessary resources to promote and deliver diabetes self-management courses to all people who have diabetes.

**The Convener:** Okay. Tony Doherty, do you want to add to that or are you just happy to share in the discussion?

**Tony Doherty (Diabetes UK Scotland):** Obviously I am happy to share in the discussion. I have had the condition for 36 years and, although I was at five or six different diabetes centres as a young child or adult, I was never given the tools to manage the condition. We have learned that we can manage it better if we know what we are doing. Having undergone the training, and having taught and worked with other people as a specialist nurse, I know that that is what people need. We are not asking people enough about what they require to be able to live with the condition. We have been delivering care to people without taking account of what they require to do the job. I fully support what Diabetes UK wants to do.

**The Convener:** Okay. I open the discussion up to questions.

**Nanette Milne:** I must declare an interest; I am a co-convener of the cross-party group on diabetes. Self-management is an issue that concerns us.

I was interested to hear Tony Doherty say that he is now a specialist diabetes nurse. We are talking about spreading the training on diabetes. Should that be done by expanding the use of specialist diabetes nurses?

14:45

**Tony Doherty:** I sincerely hope that we can. I will give you an example from my previous working life. I worked from 2000 as a diabetes specialist nurse in Addenbrooke's hospital in Cambridge. We had a catchment population of about 90,000 to 100,000 and a clinic population of about 2,500, 800 of whom were type 1 diabetes patients. We had seven diabetes specialist nurses to work with that population. My experience on returning to Scotland has been that the staffing levels are well below that level, so the job cannot be done properly.

We need more nurses and dieticians who are trained to work with diabetes patients. The courses take additional time, but we have not costed the health outcomes that the models that we have used in the past have produced, so we do not have much information on which to base a

change. However, it would make a difference to have additional, appropriately trained staff who could deliver the courses.

**Nanette Milne:** I am a great believer in specialist nurses. They make a tremendous difference, not only in diabetes, but in several other specialties. They can be a great benefit—and probably a saving in the long run—to the national health service.

I return to the question that Nigel Don asked the previous petitioner. Do you have any idea of the shortfall in provision and what sort of increase in resources would be needed to be make it up—or is that another exercise that needs to be done?

**Tony Doherty:** It is probably an exercise that needs to be done properly. There are toolkits available. Diabetes UK has developed a toolkit with the Department of Health in England and Wales to help service providers analyse their service provision appropriately and determine what staffing they need for their population.

I am not aware of any check to examine the numbers and compare provision in Scotland with that in other parts of the United Kingdom per head of population, so such an exercise would be beneficial. However, the Scottish diabetes group is undertaking some work just now. A research clinician has been tasked with considering the education that is provided for type 1 diabetics, which is the smaller group—most people have type 2 diabetes; only 15 per cent of the diabetic population in Scotland has type 1. That clinician's job is to gather the models of good practice throughout Scotland with a view to developing a toolkit to deliver structured education.

Some of the information gathering is in progress, but the remit of that work ignores quite a large part—85 per cent—of the people who live with diabetes.

**Stephen Fyfe:** At the moment, courses for type 1 diabetes are delivered at five centres in Scotland so, to answer Nanette Milne's question, to extend that service to the rest of Scotland, we could need twice as many people. Type 2 education is provided in Glasgow, Livingston and Lanarkshire—just three health board areas—so we would be looking at five times the number, just to ensure that everyone gets the current level of education. We did a quick calculation earlier. It showed that if the current rate of diabetes education carries on, it could be 2050 before everyone gets it.

**Rhoda Grant:** It is my understanding that diabetics, whether type 1 or type 2, have regular check-ups with their general practitioners or at specialist clinics. Could the work be carried out as part of those check-ups or are you talking about a more detailed course?

**Tony Doherty:** It is a more detailed course. I have type 1 diabetes. Normally, I would be looked after at a diabetes centre at a hospital. Type 2 diabetes care is moving towards the GPs' clinics because they have a better clinic infrastructure to deal with the numbers and that allows the specialist centres to deal with the smaller groups of patients.

The work needs to be done by staff other than those who currently deliver the service. The current staff deal with the patients we have now, but new diabetics are diagnosed all the time and time out is required to provide the education. It takes up to 30 hours a week to deliver a DAFNE course, or type 1 education. Eight people will attend the course and probably two or two and a half educators' time will be used to deliver it. Staff are not able to spend that amount of time one-on-one with eight separate newly diagnosed patients.

There is a saving in education. The University of York has run a health economic model that shows that carrying out structured education for type 1 diabetics saves the Department of Health money. The other important thing is that every course should meet the same standard—that is what I would ask for as a person living with diabetes. All educators should be trained to follow a set curriculum and be able to work to a certain level of quality. That would be better than the information that is available being entirely dependent on where people live.

I have had problems trying to explain the system that I use for managing diabetes to other health care workers because of their lack of knowledge. More than 500 patients in Scotland and more than 8,500 in the United Kingdom use the DAFNE system and the numbers are increasing every year, but if they travel around the country or move to another part of Scotland, they might not be near an area in which there is a physician who is qualified to supervise the programme.

**The Convener:** What happens to those individuals?

**Tony Doherty:** They will be left to their own devices, but someone who has gone through a structured education model will be more able to look after themselves than someone who has not.

**The Convener:** I am sure that you are aware of networks that have been built up between the individuals who you work with. Are we getting it right anywhere in Scotland?

**Tony Doherty:** Yes. If I were moving house, for example, I would like to go to Aberdeen or West Lothian.

**The Convener:** What have they got that the rest of Scotland does not?

**Tony Doherty:** They use structured education models that are validated at a national level. They have staff who have been trained in the system and, most of all, they have clinicians who want to ensure that that system of care is patient centred.

**The Convener:** But you do not have the right to go to those places for care, because of the geography or even just the practicality.

**Tony Doherty:** That is correct.

**The Convener:** That is a useful piece of information. We can follow that up a bit further.

**Nigel Don:** I am coming to this issue new as I am not on diabetes cross-party groups and so on, although I suspect that my father was a type 1 diabetic. Given that he died 30 years ago at the age of 50-something, you will appreciate that he was struggling in days when the thing was little understood.

I think that what you have said adds up to a position that is clinically proven and clinically researched—you mentioned an academic study.

**Tony Doherty:** That is correct. The business model has been created for some of the gold-standard structured education models. DAFNE, which involves self-management, has been costed and proven. The jury is still out on DESMOND—diabetes education and self management for on-going and newly diagnosed—as it involves changing the way in which people perceive their diabetes. Previously, people were told that type 2 diabetes was a disease of old age or lifestyle and it would have been described as mild diabetes, but it is the one that kills more people than some others. DESMOND works by getting individuals to process the information they receive. It is well researched and has a good academic and psychological model behind it.

**Nigel Don:** That brings me to my question. Why is it not yet obvious to health services across the country that it is in their interests to do what you are suggesting? Why do you have to persuade us that we should persuade them, if the evidence that should, presumably, be persuading them is already available?

**Tony Doherty:** That is the \$100,000 question. It takes a while to change practice when people have been doing things in a certain way for some time. In the 36 years in which I have been living with diabetes, I have seen continuing improvement in the delivery of diabetes care in Scotland and the UK.

We are asking practitioners to change the way they manage systems. We are asking them to change their clinics and how they deal with patients, and to undergo additional training and to be accredited to deliver services, although they are time pressed. We ask a lot when we ask

clinicians to believe in an approach that is not backed up by 30 years' evidence.

The DAFNE model is based on a system that is used for type 1 diabetics in three quarters of hospitals in Germany. It has been in use for more than 25 years and it probably took about 15 years to reach a point at which most hospitals adopted it, because people do not change quickly or easily.

**Nigel Don:** Would the specialist nurse route—for want of a phrase—offer a way forward? I am sorry; I do not understand quite what that would mean, but I understand how general practitioners and hospital clinicians struggle to find time to devote to an area unless they are absolutely convinced about it. Are there parallel routes that would enable nursing staff to deliver what you want?

**Tony Doherty:** Nurses and dieticians are the main educators in all courses, which saves doctor time. There are big issues in that regard. If more staff were available and systems were in place to enable staff to train, more courses could be run. It is as simple as that; it would be logistically possible to run more courses. That is my impression.

It took five years for all staff in the department in Addenbrooke's hospital to be trained up. In some hospitals there might be only one or two nurses and a half-time dietician to deal with the diabetic clinic population. I have been told, "We can't run a training programme because the dietician is married to a farmer and it is lambing season." That cannot be right.

**Nigel Don:** I think that I understand where the farmer's wife was coming from.

Everyone can ask for more resources, but I hope that you might be able to tell me whether there is a route that just displaces what we currently do and is beneficial?

**Tony Doherty:** I do not understand.

**Nigel Don:** Rather than doing what we do now, let us do something different that will be at least as good now and better in future.

**Stephen Fyfe:** We want courses to be set up in areas where they are not currently provided. It is not a case of doubling the effort; in some areas of Scotland courses are not provided. If diabetes managed clinical networks and health boards took on board the benefits of the courses, there would be a great improvement and at least there would be equitable access throughout Scotland.

You asked whether there is another way of delivering what we want. There is a new development for type 2 diabetics, because interest in using lay educators is developing. People who

have diabetes might be able to take part in delivering courses.

**Bashir Ahmad (Glasgow) (SNP):** What is the difference between type 1 and type 2 diabetes?

**Tony Doherty:** That is another question that is always asked. Type 1 diabetes is usually diagnosed in younger people. If you have it, it means that your pancreas has stopped producing insulin at an early stage, so you require insulin injections straight away.

Type 2 diabetes is a disease that has a later onset and is passed on more through families. It is to do with your pancreas running out of insulin slowly or your body not using insulin effectively. You start on a special diet, a weight reduction programme and oral medication but you probably go on to use insulin. It is interesting that in the past insulin was used as a threat. People were told, "If you're not good you'll have to get insulin." That was the wrong message, because one in two people with the condition probably require insulin within five years of diagnosis. People used to be conditioned to accept that it was their fault that they needed insulin, or to think that they must stay on tablets for years, although they would have benefited from additional treatment.

Medicine has moved on and, through large trials, science has given us the evidence on how to manage the condition. Someone who has type 2 diabetes will require to take dietary measures or tablets before getting insulin, whereas someone who has type 1 diabetes will require insulin from the word go, as soon as they are diagnosed.

15:00

**Claire Baker (Mid Scotland and Fife) (Lab):** According to the notes that you gave us, the average age of diagnosis for type 1 diabetes is 13. I am concerned that there seems to be a bit of a postcode lottery, in that training provision is not consistent throughout the country. Thirteen can be quite a difficult age, particularly if that is when someone is presented with the knowledge that they are a type 1 diabetic. Is the support that people in the teenage age group receive the same as the support that you have described, or is specific support available for them?

**Tony Doherty:** By and large, the paediatric centres in Scotland have got their act together as regards processing groups of people and, of course, it is not the case that a huge number of young people are regularly diagnosed with diabetes.

The National Institute for Health and Clinical Excellence has requirements for structured education provision, and teenage and paediatric modules are being worked on. Those who are

involved in diabetes education must be trained properly—we would not ask teachers not to be trained properly—and not just have post-registration qualifications in teaching. Like teachers, they should follow national curriculum guidelines.

The information that is required, certainly for sufferers of type 1 diabetes, is quite straightforward. It is a question of how they tally that with their everyday lives. When we speak to people who have type 1 diabetes, we find that there are quite large gaps in the information that they have been provided with, even though boxes have been ticked in clinics to say that they have received formal education. There must be a different way of doing things. The modules can be changed, the curriculum is being developed and quality circles are operating to monitor the systems. Clinicians are working hard to provide appropriate education. If people are challenged to do that in the right way and they work together, things will happen.

**The Convener:** It strikes me from the figures that you and Stephen Fyfe have mentioned that, as each year goes by, some progress is made, but the number of people who are coming on to the treadmill means that just when you think that you are going somewhere, another 10 people are queueing up to crash into you. How do we change that?

I have looked at your submission again. I find the workings of health boards bizarre and obtuse at the best of times. DAFNE and DESMOND sounds like the name of a terrible 70s sitcom. How do we find ourselves in a situation in which DESMOND is offered in the south of Glasgow, but nowhere else in the city—although that might change in the next year or two? How does such a situation arise?

**Tony Doherty:** The reason is probably that there are no longer-term strategic plans to implement such initiatives. I was part of the south of Glasgow team of nurses who developed the DESMOND pilot. We took part in the randomised control trial, but we were not able to roll out DESMOND across Glasgow in the way that nurses were supported to do in Lothian. The course has been rolled out in West Lothian to the extent that it now runs twice monthly. Other teams of educators are up and running and systems are in place to keep the course running. In West Lothian, the infrastructure, administration and co-ordination are more manageable. The West Lothian model will slide across to Edinburgh—additional educators are being trained up.

The issue is partly about having in place a plan that includes timelines that will enable us to know when we have reached our objectives. Rather than simply leaving clinicians to do their best as

they continue to see their patients, we need to have a strategy.

**The Convener:** So, in other words, we need to explore how to localise enthusiasm. The process should be driven by clinical expertise or experience rather than by a strategic review of what is required for different parts of Scotland. I imagine that the statistics on which parts of the country diabetes is hitting big time from the point of view of diet, exercise, age profile and so on make interesting reading. It would be helpful if Diabetes UK could provide us with such information.

**Tony Doherty:** We can certainly provide that.

**The Convener:** I am sorry, Stephen; I think I cut across you.

**Stephen Fyfe:** I was going to say that deprivation is another key issue as far as diabetes is concerned.

**The Convener:** That is why I asked about Glasgow. Although deprivation is mostly concentrated in the east of the city, there is also a substantial amount in the south of the city, where my constituency lies. I find it daft that there is such variation in support structures. Although people who live on one side of the Clyde might get some support, it might not be the same kind of support that those on the other side get.

**Tony Doherty:** You raise a good point about equity and service delivery. Unless everyone receives the right training and unless the systems are in place, these programmes cannot be rolled out. The process has to start somewhere. All the Glasgow nurses have been trained, but there is a shortage of dietetic cover to enable the full programme to be rolled out.

**The Convener:** On that point, I wonder whether you can help me with something before I write to the health board in my role as constituency MSP. Is the programme being rolled out to the rest of the city next year because the resource or staff issues have been sorted out?

**Tony Doherty:** We hope that that will happen, but we can never seem to get an answer to that particular question. Interestingly, lack of administrative support to enable or facilitate the programme can stop the roll-out.

**The Convener:** If members have no other questions, I will repeat what I said to earlier petitioners. We are now in a process. We welcome this petition, which will form part of our discussion with key agencies on the equity, scale and mapping out of provision in Scotland. I now seek members' views on how we might take this petition to the next stage.

Obviously, we should raise the matter with the Scottish Government and NHS Quality Improvement Scotland. We could also seek the views of a couple of other organisations, if members think it appropriate.

**Rhoda Grant:** I wonder whether the Scottish diabetes group and the cross-party group on diabetes will want to comment on the petition.

**Nanette Milne:** As all those with an interest in diabetes tend to be active members of the cross-party group, that might be a good way of securing a cross-section of people with a valid opinion on the matter.

**The Convener:** I note with interest and surprise that, given all the health issues that have popped up over the past eight years, the Parliament has not undertaken any real work or attempted any real interventions on this subject. Perhaps we should think about that.

**Tony Doherty:** My condition—and type 2 diabetes, which I do not have—is linked to many other conditions, including stroke, mental illness, depression and heart disease. Indeed, it is linked to more conditions than you might be able to name and it costs this country more in health care than any other condition I can think of.

**Nanette Milne:** Type 2 diabetes is a massive and growing problem.

Given the reference to specialist nurses, is there any merit in contacting the Royal College of Nursing or the Royal College of General Practitioners? Moreover, with the drive since the publication of the Kerr report towards self-management of long-term conditions, I wonder whether we should also seek the views of the Long Term Conditions Alliance Scotland. After all, this is a key issue for the country.

**The Convener:** Those suggestions are all worth exploring. Members will have different views on the many health issues that have popped up in the Parliament but, curiously, if we can find the right approach to diabetes it will have an impact on many more people. Of course, that debate will touch on very difficult, controversial and divisive issues such as accident and emergency units, on which there has been an understandable difference of views.

There is a real need for such a debate because, with its various health consequences, diabetes affects a lot of people throughout the country. Having been involved in health at various levels, I know, for example, that people believed that the introduction of managed clinical networks would resolve these matters, but beneath each of those networks is another, very complex, level of bureaucracy, mechanisms, resources, staff and placements. Although one model for an MCN

might use two or three major clinicians, we have to remember that other things still have to be plugged in beneath it to light it up.

Parliamentarians need to do a bit more work on this matter, in conjunction with organisations such as Diabetes UK Scotland. The Public Petitions Committee will be happy to engage in that. You can also lobby individual members, members of the Health and Sport Committee and other areas of the Parliament. We can discuss those issues with you. However, we have to seek responses from certain agencies and organisations so that we can decide how to take the petition forward.

As I explained to the previous petitioners, the clerks will keep you fully involved in those discussions and we will be happy to receive any further information or observations that you might want to submit after this meeting. You will also have the opportunity to comment on some of the stuff that elected members receive for consideration. When the petition comes back before us in due course, we will consider the responses and decide how to take the matter forward.

Thank you very much for attending this afternoon. I hope that we have been helpful. I wish you well in dealing with your condition, although I appreciate that the petition is about the bigger aim of securing better support for everyone who faces a similar health dilemma.

We will now take a quick comfort break.

15:10

*Meeting suspended.*

15:17

*On resuming—*

### **Nature Conservation (Scotland) Act 2004 (Snares) (PE1124)**

**The Convener:** I welcome everyone back for PE1124, which is by Louise Robertson, on behalf of the League Against Cruel Sports, Advocates for Animals, the International Otter Survival Fund and Hesselhead Wildlife Rescue Trust. The petition calls on the Parliament to urge the Government to amend the Nature Conservation (Scotland) Act 2004 to introduce provisions to ban the manufacture, sale, possession and use of all snares. Members have a copy of the written submission from Advocates for Animals.

I welcome Louise Robertson and Libby Anderson. The two previous petitions gave you a chance to see the format, so I do not need to explain that. You have three minutes to talk about



your petition, after which we will have a question-and-answer session with members.

**Louise Robertson (League Against Cruel Sports):** Good afternoon. As the convener said, we are here to seek a complete ban on the manufacture, possession, sale and use of all snares in Scotland. The campaign to ban snares is being jointly led by the League Against Cruel Sports and Advocates for Animals, both of which are campaigning animal welfare organisations, and is supported by the International Otter Survival Fund, Scottish Badgers, the Hare Preservation Trust and Hesselhead Wildlife Rescue Trust, all of which are specialist wildlife groups.

Scottish ministers have powers to regulate or ban snaring under the Nature Conservation (Scotland) Act 2004. Almost a fortnight ago, the Minister for Environment, Michael Russell, announced his intention not to ban snares but to introduce a series of regulations to govern their use. The minister's decision ignores the overwhelming public support for a ban. In November 2006, the then Scottish Executive issued a consultation on the issue, 70 per cent of respondents to which called for a ban. In February 2007, CommunicateResearch undertook an opinion poll in which 75 per cent of Scottish people who were surveyed said that they found the use of snares unacceptable and wanted a ban. Since we launched our public awareness campaign in January this year, the minister has received almost 5,000 e-mails from the public asking for a ban. That is on top of about 1,700 postcards to the minister and about 6,000 postcards to MSPs to call for a ban.

On 20 February, we were extremely disappointed that the minister chose not to agree with public opinion. We are presenting a petition with almost 8,000 signatures—7,988, in fact. We ask the Parliament to reopen the issue and consider our argument for making snares illegal. There are two fundamental arguments for banning the use of snares: they cause suffering and they are indiscriminate. Snares frequently capture non-target species, including domestic pets, farmed animals and protected wild animals such as otters or badgers.

In his announcement, the Minister for Environment stated:

"The welfare implications of snaring itself are also the matter of some debate."

There is no debate—snares cause immeasurable suffering. A more detailed argument is outlined in the briefing that members have been given prior to this meeting.

The minister focused on the commercial shooting industry and the perceived loss of income

that could result from the banning of snares. He quoted figures from the 2006 Public and Corporate Economic Consultants report into the economic and environmental impact of shooting, which was commissioned by the shooting industry in the shape of the Countryside Alliance, the British Association for Shooting and Conservation and the Country Land and Business Association in conjunction with the Game Conservancy Trust.

The report was peer reviewed by an academic who had been nominated by the same organisations. The data were compiled using information from questionnaires that had been sent to pro-shooting organisations, to which there were only 296 responses. In fact, more than half those responses were generated by members of the Countryside Alliance, the BASC and the Game Conservancy Trust. The significance of the PACEC report and the objectivity of the peer review process were queried in Westminster parliamentary questions as recently as January this year. We are not in a position to comment on the accuracy of the report, but we do not think that it is appropriate that Governments should cite and rely on figures that cannot be shown to be independent or objective.

The PACEC report concluded that £240 million is generated by the shooting industry, yet figures from VisitScotland's UK tourism survey estimate that visitor spend from shooting, stalking and hunting amounts to £20 million, in comparison with the £160 million that is generated by people who come to Scotland to watch wildlife and birds—that is, to enjoy our wildlife rather than to kill it. Even if the figures that indicate the benefit of shooting to the economy are taken at face value, there is no suggestion that giving up snaring animals would cause the shooting industry to grind to a halt. Snaring is not the primary means of predator control, although it might be the cheapest.

The minister quoted the independent working group on snaring by stating:

"in some circumstances snaring might be the least inhumane method where control is necessary".

We have been unable to locate any such statement in the report by that working group. We stress, however, that the report also states:

"The humane ideal for vertebrate pest control is to kill targeted species only and without causing any fear or pain."

That is impossible to achieve with snares, which are known to capture non-target species and to cause serious adverse animal welfare impacts.

Those issues were highlighted in the recent Scottish Society for the Prevention of Cruelty to Animals survey, which showed that of a sample of 269 animals trapped in snares, 77 per cent were non-target species, and of those, 17 per cent were companion animals; 12 per cent were European

protected species; and 57 per cent suffered injuries that proved fatal. Ninety per cent of the survey's respondents—which included vets, SSPCA inspectors and animal welfare workers—believed that, in their professional opinion, the animal had suffered.

Those figures should not be ignored. It is also worth noting that, despite its requests, the minister declined to meet the SSPCA to discuss the matter. We do not believe that the measures that were proposed by the minister to regulate snaring will eradicate the toll of animal suffering and the high number of non-target captures. We acknowledge that some of the measures will mitigate some of the problems, but we have had a partial regulatory regime for decades, with a ban on self-locking snares and various industry codes of practice. That regime is not working, it is not enforceable, and animals suffer and die as a consequence. Only a total ban on snares will solve that problem.

**Rhoda Grant:** What aspects of the minister's statement do you feel are unworkable?

**Louise Robertson:** We have been campaigning for a complete ban; regulation of the cruelty that is inflicted by snares is not a workable solution. We feel that enforcement has been proven not to work in the past, and we cannot see that it will work in the future. Only a ban will be enough to stop the suffering that is caused by the use of snares.

**Rhoda Grant:** Are you saying that none of the regulations that the minister mentioned in his statement will mitigate that in any way?

**Libby Anderson (Advocates for Animals):** We would accept that, taken individually, those amendments would mitigate the problem. Attaching identity tags to snares is really an enforcement measure, so the offence has to occur and the suffering has to take place. Once that has happened, the tag helps the authorities such as the police or the SSPCA to find out who has caused the offence, but it does not prevent it. Having had—as Louise Robertson said—a partial regulatory regime for so long, our aim is to eradicate and prevent the suffering.

**Nanette Milne:** In your evidence, you focused on the shooting fraternity. I have had representations from people in the farming and agriculture community who are concerned about issues such as foxes attacking sheep and about the sheer practicalities of getting at predators without snaring them.

**Libby Anderson:** Research has shown that fox predation is not as high as it is perceived to be anecdotally. One study found that fox predation accounts for about 1 per cent of lamb losses, compared with the 20 per cent of losses that are down to mistooking, poor husbandry or hypothermia. There is no doubt that lambs are

lost. Foxes eat many lambs as carrion—the lambs die and then foxes eat them. It is hard to quantify the matter, but the research that we have seen shows that the taking of live lambs by foxes accounts for a low percentage of lamb losses. Further, foxes are not a pest for arable, beef and dairy farms. The complaints are made only in one sector, and the research does not necessarily back up those complaints.

**Louise Robertson:** Rabbits are perceived to be a big pest to crops, but figures that the BASC has produced show that the percentage of rabbits that are taken by snares is low in comparison with the percentage that are taken through other pest control methods.

**Libby Anderson:** The Minister for Environment focused in his statement on the shooting industry and its apparent economic benefits—we expected to hear more about agricultural issues.

**Robin Harper:** My position on the issue is known. Quite a few questions were left over from the debate. No debate will answer all the questions, which is one reason why the petition should be acted on. The issue will not go away, but we must accept that, for the moment, Parliament has decided to back the Government measures.

Two thoughts occur to me immediately. First, we should ensure that monitoring is in place to find out whether the measures will provide mitigation. Secondly, we should take the debate further. One question that was certainly not answered in the debate concerned the lessons that have been, and can be, learned from other European Union countries that have banned all snares. We should consider how those countries tackle pest control. I would like that to be one of the questions that we ask. I am not sure that we can ask that question of all the organisations that we might want to consult—obviously, we must go across the board—but I would like to have evidence from the SSPCA, the Woodland Trust and others on measures that are taken in other EU countries from which we could learn.

**The Convener:** I acknowledge Robin Harper's views. However, we did not have a debate; we had a ministerial statement. I am sure that those who are in favour of banning snares will raise issues relating to the legislative framework and that those will pop back up again in the Parliament at some stage. In essence, the minister announced a package of measures that some people have called for, as the petitioners have said. There is room for broader debate on the issue, which cuts across all parties and none. It is not necessarily a party-political issue—I hope that it is not.

For our benefit, several members want to explore some of the issues that the petitioners raise.

15:30

**John Farquhar Munro:** Good afternoon, ladies. On Nanette Milne's point about poor Reynard the fox taking the lamb, I suppose that that happens, but not to a large extent. If you are going to use that argument, we could say that the eagle also takes lambs—and the eagle is protected. I do not think that your argument stands up.

I have no love for snaring. I was brought up on a west Highland estate on which snares were never used, yet the estate was able to control predation by the animals that we have described. Once a snare is set, it catches whatever comes by, even protected species such as badgers, otters and, if you like, domestic animals; it causes a lot of pain and suffering for those poor animals. I would like to see a complete ban on the use of snares.

The minister's statement suggested amendments that might be acceptable. However, whether or not a snare has a lock on it, it is still a snare and it can be equally as damaging either way.

Just in the past fortnight, a friend of mine was charged by the police—

**The Convener:** Were you out with him that night, John?

**John Farquhar Munro:** No.

He was charged for having a sheep in a snare. He is a sheep farmer and it was one of his sheep. He did not set the snare: somebody else set it. I do not know how long the sheep had been caught in the snare, but it was well decomposed by the time that somebody took a photograph of the carcase and passed it on to the police. Not only that, the sheep had a second snare on it, which it had obviously got into some time previously but had been able to break away from.

There is no doubt that snares have had a bad press. Other EU countries, as Mr Harper said, have banned snares. I have no information on the effect of that, but I do not think that predation is any worse in those countries than it is in Scotland. Many countries in Europe have banned snares.

The minister said that he will insist that a sign is put up wherever a snare is set. The fox and the badger cannot read, so what is the point of a sign? The minister's suggestions amount to nothing at all; they were just a sop to the people who want to continue snaring those poor unfortunate animals. If it comes to the point at which I must make a decision, I am for an outright ban on snares.

**The Convener:** That is a flavour of the debate that we need to have.

**Louise Robertson:** For people who might not be aware of it, I point out that a snare is a simple, basic device: it is just a thin wire noose. No matter how good someone's intentions may be or how much training they may have had in the use of snares, they cannot guarantee what will be caught in the snare or that it will not tighten to the extent that the animal will suffer extreme injuries and the stress that is associated with being caught in that type of trap.

**Claire Baker:** My question is perhaps a bit hypothetical, but it links to what Louise Robertson just said. Given that a snare is a simple thing to make, if a ban was introduced, how easy would it be to enforce? That ties in to the wider issue of the education of land managers, and it is also related to something that came up in the minister's statement. What should the Government or the minister do to encourage more people to choose not to use snares? Louise Robertson mentioned the cost of doing that, and I think the minister mentioned the expense that is linked to it. What steps could the Government take to encourage land managers to share better practice and consider other methods?

**Louise Robertson:** In response to your first point, I think that it would be a lot easier to enforce a complete ban than it would be to enforce partial regulations. One point that the minister made was how many benefits and how much financial gain is generated from the commercial shooting industry. We suggest that some of the profit is put back into education and training, and research into alternative methods of predator control.

**Nanette Milne:** I ask this question from ignorance. In countries where snaring is banned, is there a problem with illegal snaring? I could imagine that happening.

**Louise Robertson:** It is not something that I know about, but I imagine that, as always happens when laws are passed to ban something, there is a problem with illegal use. However, that is not a reason not to ban snares.

**Nanette Milne:** John Farquhar Munro referred to a sheep not being found until it was a rotting carcase. Legally set snares have to be checked within 24 hours, so setting and not checking snares is already an illegal action. I cannot imagine that someone who does that would change their behaviour if snares were made illegal.

**Libby Anderson:** Both those points are related. Claire Baker asked about enforcement. The current regime is confusing because anyone who finds a snare needs a degree of expertise to know whether it is legal. The simplicity of an outright ban

is that anyone who saw a snare in a fairly remote place would know that it was illegal. Confident that it was illegal, they would know to report it to the authorities or, in extreme cases, they might be able to remove it. The enforcement regime would be much simpler than the current one, which is complicated.

John Farquhar Munro illustrated the indiscriminate nature of the snare when he mentioned sheep. As we know, companion animals, protected species and farmed livestock all get caught in snares because the traps are indiscriminate. They are left in remote areas and are not necessarily inspected. The example of the decomposed carcase is all too common. So many snares are set that people cannot inspect them as frequently as they should, and the consequence is that animals die of starvation, exposure, dehydration, strangulation and disembowelment in a snare. That would be illegal if it was inflicted on a domestic animal, but it is currently permitted to happen in our countryside.

Unfortunately, although there were some positives in the minister's measures, they would not stop the indiscriminate nature of snares or the lack of inspection. The lack of inspection is illegal now, but it still happens.

**Louise Robertson:** The inspection rate is once every 24 hours. By anyone's standards, it is not acceptable for an animal to be left to endure the extreme suffering that is inflicted by a snare for that length of time.

**John Wilson:** Advocates for Animals, the League Against Cruel Sports and other organisations have all drawn the issue to our attention. Not only have they presented the petition, but every MSP has been inundated with e-mails and postcards putting forward the case. We seem to be receiving conflicting advice from various organisations about the use of snares. I do not support their use, but we have to take on board the points made by other organisations.

Robin Harper mentioned some of the organisations from which we should seek advice. I am surprised that we have not heard from the RSPB. We know that some predatory animals take eggs from ground-nesting birds, and it would be useful to find out the RSPB's view on the petition and how to control the taking of eggs from nests.

When a boat was grounded off one of the islands a couple of weeks ago, the fear was that the rat population from the boat would migrate on to the island and decimate the population of the ground-nesting birds. Our consideration of the petition must include ways of dealing with the problems that are caused to the animals and bird species that fall foul of the predatory nature of the animals that snares are set to trap. Foxes are one

example that springs to mind. It would be useful to get the RSPB's views on the curtailment of activities of predatory animals in the wild.

**Libby Anderson:** We cannot claim to speak for the RSPB, but we have some information from its publications. The RSPB manages more than 130,000 hectares in the UK and has a policy not to use snares on its land. Last year, the RSPB produced a review of predation in the UK and one of its comments was:

"It is one thing to say that predators may sometimes affect population levels of species of conservation concern, and another thing to decide what—if anything—to do about it. The RSPB's strong preference is to concentrate on habitat measures that favour the prey species and make life more difficult for the predator."

There is more about that in our briefing, which I could pass to the committee.

**The Convener:** There do not appear to be further questions or comments from members. You have seen the process that we go through and you made a positive contribution. The diverse views of the committee are reflected in the Parliament, so the matter that you raise might well pop up as a broader debate in the near future. I am sure that passionate positions will be taken.

We would like to explore further a number of organisations that have been mentioned during our questions. John Wilson identified the RSPB. We could contact it for comments and observations on the petition and other matters. For clarity's sake, we would like to get the Government's view on where it stands apropos Mike Russell's statement and how the monitoring of some of the welcome recommendations that he announced will be developed. We might wish to get further information from other organisations. I am happy to hear members' views.

**John Farquhar Munro:** It is very important that we contact the British Veterinary Association.

**John Wilson:** We could contact the Association of Chief Police Officers in Scotland or the police. There are wildlife officers in some areas, and it might be useful to find out what level of incidents, particularly snaring, have been reported to the police. There are a lot of illegal activities in the countryside, but we want to concentrate on snaring.

**Nanette Milne:** I am meeting the Grampian wildlife crime officer next week, so I will get some information about that. We should probably approach the Scottish Gamekeepers Association; its opinion will be the reverse of the petitioners', but we should hear both sides of the discussion.

**Nigel Don:** I find the matter enormously difficult: although my instinct is that snares are a bad thing, I recognise what other people tell me about there

being times and places for their use. Perhaps we should speak to the gamekeepers and the minister about whether there is scope for regulation of where snares might be set, such as in areas where people shoot, which is something that I would never dream of doing. We could ask whether the exceptions to the ban that the minister sees as appropriate should be localised for a specific and demonstrable reason rather than their being applied throughout the land where they might not be appropriate. I wonder whether a place criterion might have been missed. If there has to be an exception at all, it should be in the right place rather than a general exception.

**Louise Robertson:** I was—

**The Convener:** You do not need to respond to that; I can imagine what your view is.

**Louise Robertson:** Because there are protected species in Scotland such as the mountain hare and the otter, and because of the spread of their habitats, it would be virtually impossible to set a snare without there being a chance of its catching a protected species.

15:45

**The Convener:** You know as well as we do that there are contested issues in the debate. The committee has to gather the evidence—obviously, your submission contests the statistical and financial basis of the statement that was made. That is a fair call, from your perspective. We need to get clarity, so we should have discussions with or get submissions from a number of organisations, such as the Scottish Countryside Alliance, estate management groups and so on, because they might have a different view and a different core message. We must distil all the information.

**Nanette Milne:** I asked a question about agriculture. It has crossed my mind that the National Farmers Union of Scotland might have views.

**Rhoda Grant:** I am not sure whether the Scottish Parliament information centre produced a briefing on the issue in relation to the ministerial statement. It might be worth while asking SPICe if it did that and whether it has investigated what happens in other countries in which snaring has been banned. That would inform our deliberations. The SSPCA would also be worth contacting. If we are getting in touch with NFU Scotland, perhaps we could also get in touch with the Scottish Crofting Foundation, given that it represents people who work on the land.

**John Farquhar Munro:** Your suggestion that we should contact SPICe is useful.

**The Convener:** Thank you for submitting the

petition. We have had a fair discussion, and we will explore the issues that you have raised. As I said to the previous petitioners, you will have the opportunity to add further to the discussion and to take a view on the other submissions that will come in to committee members through the clerks. We look forward to determining how we will deal with the issue when the petition comes back to the committee. Thanks for your patience.

### Lion of Scotland Statue (PE1117)

**The Convener:** There are no more oral submissions on petitions today. Our next new petition is PE1117, by Rosalind Newlands, president of the World Federation of Tourist Guides, on behalf of members of the Scottish Tourist Guides Association, calling on the Scottish Parliament and the Scottish Government to secure permanently for the people of Scotland the sculpture known as the Lion of Scotland, by Ronald Rae, which is temporarily exhibited in Holyrood Park until March 2008. I misread the petition—I thought that “the Lion of Scotland” was Alex Salmond. I apologise for that.

We have had the chance to look at the papers that have been made available to committee members, and I seek members’ views on how to handle the petition.

**Nanette Milne:** Is it the petitioner’s intention that the statue remain where it is in Holyrood Park, or that it be brought into the Parliament’s garden? Someone asked me that question this morning, and I had no idea. From what I read in the committee papers, I assumed that the petitioner wants it to be retained where it is.

**The Convener:** As far as I can remember from the papers, it has been allowed to remain where it is now for additional time. The issue for the creator of the piece and the petitioner is that they would like it to be a permanent feature. I think that there was meant to be a discussion with the Parliament’s art advisory group sometime in February, but I do not know whether there has been an update. [*Interruption.*] I understand that the group meets tomorrow, so our meeting is taking place between some of the discussions that are being held.

Do members have any views or observations on how to deal with the petition?

**Robin Harper:** I declare an interest, as I am the convener of the art advisory group.

I draw members’ attention to one or two details in the briefing paper. No item can be received on permanent loan, because that term has no legal status. The matter is subject to a discussion not only with the art advisory group and the Scottish Parliamentary Corporate Body, but with Historic

Scotland. All three bodies are aware that many people feel that the statue should be accommodated, in one way or another, near the Parliament. All that I can say at this point is that conversations are continuing—I have to leave it there at the moment.

If the committee is so disposed, it might be good to write to the art advisory group, the Scottish Parliamentary Corporate Body and Historic Scotland to advise them of the petition, as our papers suggest. However, regardless of the pressure that has been brought to bear, the decision will be taken in accordance with the guidance on which works of art the Parliament will take and the conditions under which it will accept them, which has been developed on the basis of past decisions and agreements. Without going into great detail, agreements have been made that determine the terms on which we will purchase works of art or take them on temporary loan.

**The Convener:** Thank you for that helpful background information.

We are in an in-between situation. It is a question of waiting to find out what position the art advisory group will take in its discussions. I do not want to prejudge any of that, given that Robin Harper has a role to play in the process, but we can have offline discussions with Historic Scotland and other relevant agencies. We should draw their attention to the fact that we have received the petition and should ask them to consider how the issue can be dealt with and to establish whether an appropriate location for the statue can be found. A solution needs to be found because it is a good piece of work that will be diminished if it does not find a proper setting.

Art is all about judgment, so I ask Robin to exercise his judgment tomorrow.

### **Animal Slaughter (PE1118)**

**The Convener:** PE1118, by Josey Rowan, calls on the Parliament to urge the Scottish Government to introduce legislation to ban the killing of animals through methods such as the schechita and the dhabiha—I should have rehearsed my pronunciation before the meeting—and to require the stunning of all animals before slaughter. The petition relates to the process that is used for the preparation of food for people who have particular religious beliefs.

We have received a series of papers on the petition, including some late submissions that arrived in the past week or so. A copy of the Scottish Inter Faith Council's submission has just been handed out to members. I invite members' views.

**Bashir Ahmad:** Before we take any further action or make a decision, we should involve the

recognised groups for Muslim and Jewish people so that they can present their cases.

**The Convener:** That is a fair call. It is a difficult issue, which people approach from different perspectives, so we must navigate it with great care and consideration. It has helpfully been suggested that we need to have clarity on the process and the legal framework under which the actions in question are carried out. That is a positive suggestion. We have already had responses from the Scottish Council of Jewish Communities, the Scottish Inter Faith Council and the Muslim Council of Britain. We should give other organisations that represent the Muslim community the chance to put the case for the methods that it uses.

Members might have other suggestions.

**Rhoda Grant:** We have also received a letter from Gordon Miller, who is a parliamentary and equalities officer—the letter does not say which organisation he represents. He points out that article 9 of the European convention on human rights safeguards the practices in question.

Further, the letters that we received from faith groups—some of which went into greater detail than I would have liked—seemed to indicate that the processes are carried out in ways that have the welfare of the animals at heart and which attempt to mitigate any suffering and avoid cruelty, and that scientific research into the matter had been carried out. Slaughtering animals is something that goes on all the time but which, perhaps, we do not think about when we eat meat. Nobody enjoys looking at that process, which might say more about our society than anything else—we all know that it goes on and we accede to it, if we are not vegetarian.

I am not sure what our next step should be. Should we seek more information, in case there is an imbalance in the information that we have received? However, the information that we have received about the ECHR perhaps suggests that we should not pursue the matter any further.

**The Convener:** That is a critical issue.

**Nigel Don:** I am sure that, if we are going to pursue the matter, we will need to talk to all parties and try and hear all sides of this multifaceted debate. However, I cannot help but feel that, if we were to change the law in this country so that the practices became illegal, that would simply ensure that they happened elsewhere and that meat products would be imported. Although it is possible that we might want to ensure that the practices do not take place on our soil, I am not sure that that would change the world. I just wonder where we are going to finish up, even if we pursue the petition.

**Bashir Ahmad:** There is a large community of people who depend on kosher or halal meat. If they are not provided with that kind of meat, they will starve. Stopping them getting that meat will affect the economy as well as the way people live and eat. Before we do anything, we should talk to the recognised leaders of the communities that would be affected.

**The Convener:** The issue is difficult, and I understand that people have strong views on it. There are two important matters that we must bear in mind, however. As the letter that Rhoda Grant mentioned says, article 9 of the ECHR has an effect on the parameters of our discussion, given that, if we said that we do not agree with the way in which animals are treated under religious practices, we would be in breach of a major piece of human rights legislation.

The second issue relates to the legal framework in which any slaughter takes place. From the papers that are before us, it seems that the present situation operates within the legal framework surrounding who has the right to slaughter an animal and the manner in which that can be done. The word “slaughter” is so powerful and emotive that it is hard to use it in a way that does not sound pejorative.

The committee needs to be clear about rights with regard to the ECHR. I understand that there are very different views on the matter and that there is no simple solution.

**Robin Harper:** Our papers say that nations such as Spain, Greece, the Netherlands, Finland and Denmark have stringent rules for animal slaughter without pre-stunning. The Netherlands is a hugely multi-ethnic community. It would be interesting to find out how the Government and communities there have interrelated over the years to get to a point at which, I presume and hope, both sides have agreed stringent rules for animal slaughter without pre-stunning. We should start by making certain that the rules that we have are as stringent as those in the Netherlands and by engaging with our religious communities on that. We need to open a conversation about the issue, as it raises animal welfare concerns. I am almost certain that religious communities would be open to having that conversation.

16:00

**Nanette Milne:** On Nigel Don’s point, the SPICE briefing states that no slaughter without pre-stunning takes place in Scotland. At present, meat that is produced without pre-stunning is imported into Scotland. I do not know whether there are plans for the situation to change but, at present, the petition does not seem relevant to Scotland.

**The Convener:** Do members have any suggestions on how to proceed? We could say that we have sufficient information on which to base a decision not to proceed with the petition, although members may have different views on the matter. Alternatively, we can seek further views and opinions—in essence, that is Robin Harper’s suggestion—so that we can make comparisons. I do not know whether I am summarising the discussion fairly, but that is the decision that we need to make.

**Rhoda Grant:** I would not argue that we should not seek further views. We should give people on both sides of the argument an opportunity to present their views. I have received many e-mails on the subject, which I found helpful and which made me think that animal welfare could be a greater concern for people who have a religious belief as they carry out the work of slaughtering animals. Because they have that religious belief, they perhaps do that work with more care and concern for the animal than may be the case when animals are slaughtered on a conveyer belt in a busy slaughterhouse using stunning. One issue is that stunning does not always work.

I do not have a great concern about our seeking more information and having a discussion in the public domain. However, we must be careful about people’s religious beliefs and that we do not cause people any offence or make them feel that their way of life and beliefs are being undermined in any way.

**The Convener:** We have a broad suggestion that we should seek further views, although we need to take on board the strong message from Rhoda Grant about respect for religious faiths, culture and belief systems.

**John Wilson:** We need to consider the issue because the petitioner has asked us to do so—if we are to give all due respect to the petitioner, we need to examine the matter. We should seek information or advice from Advocates for Animals and the Scottish Society for the Prevention of Cruelty to Animals. We should also perhaps ask the Farm Animal Welfare Council for its view, because we must consider certain issues in relation to the treatment of farm animals.

We try to ensure that we have the most stringent regulations regarding the slaughter of animals, but we must strike a balance in relation to religious beliefs and animal welfare. I take on board the point that some farm animals that go through slaughterhouses may not be treated with the respect that they deserve and that perhaps not all animals are stunned before they are cut up. We try to ensure that we have the best possible animal welfare policies, but we need to bear in mind people’s religious and ethical beliefs in relation to how they source their meat.

I suggest that we contact the organisations that I mentioned to find out their views on the best way to deal with the issue.

**Robin Harper:** I go back to the point that Rhoda Grant made. The tenor of our seeking of views should be that there is no intention of any threat to the culture of the minority communities that have particular religious practices in relation to the slaughter of animals. The aim is simply to make sure that we know how that is done and for it to be explained to us that it is done with the minimum pain to the animals concerned.

**Bashir Ahmad:** Once when I was using a very sharp knife to sharpen my pencil, I cut my finger without noticing. I can still show you where I had the cut, but I never noticed it because the knife was so sharp. To say that there is cruelty to—

**The Convener:** Pollokshields is not the same as it used to be, is it?

**Bashir Ahmad:** I do not think that there is cruelty to animals if the knife is sharp. If it is sharp enough, they do not feel anything, whichever part of the body is cut.

**The Convener:** We have had a lot of discussion. We understand the sensitivities of the petition—I give that reassurance. The petition calls for legislation to ban the killing of animals through methods that are part of religious culture. There are different views on the matter—let us not kid ourselves about that. However, we have a chance to explore the issues and seek reassurances.

The matter is a difficult one for individuals because of their own particular faith beliefs, but I welcome Bashir Ahmad's contribution to the debate and I hope that we can reflect some of that in the discussions that we will take forward on the petition. We identified a number of organisations from which to seek views and we will bring the petition back to the committee in due course when we have received responses.

### **Road Haulage Industry (Fuel Prices) (PE1119)**

**The Convener:** PE1119 is by Philip Flanders, on behalf of the Road Haulage Association, and calls on the Scottish Parliament to urge the Scottish Government to make representations to the UK Government on the impact on the road haulage industry of recent fuel price increases and to press for a freeze in fuel duty while the average price remains at or more than 90p per litre at the pump and for a fuel duty regulator based on additional windfall revenue to offset fuel price rises beyond forecasts. The petition attracted 952 signatures.

Do members have views on the petition?

**Rhoda Grant:** The issue is reserved, so I think that we should close the petition. It is worded cutely, in that it asks the Scottish Government to "make representations" to the Westminster Government, but if we accept it we will open the door to an awful lot of petitions on reserved issues. We have enough issues to deal with. We should ask the petitioner to petition the Westminster Parliament.

**John Wilson:** Rhoda Grant is right that the petitioner is being cute, but I understand that petitioners do not have the same access to the UK Parliament to present such petitions. Issues in Scotland, particularly in its rural base, might make it incumbent on the committee to ask the Scottish Government to make representations to the UK Government. I do not know when the petition was lodged, but I pay more than 90p for a litre of petrol in the forecourt when I fill up my car.

It would be useful if the committee asked the Scottish Government to take the petition slightly further by asking the UK Government how it will assess the impact on rural communities of the current price of petrol in the forecourt. I pay just over £1 a litre, but in some Highland and rural areas, the cost is well in excess of that. That has a detrimental effect on the economy of those areas and on the pockets of people who live there. Urging the Scottish Government to write to ask the UK Government its opinion would be useful.

**Robin Harper:** The petition is worded more like a motion that an MSP would lodge to seek other MSPs' support, and it is not appropriate for the committee to pass on. The petitioner should lobby one of his list MSPs or his constituency MSP to lodge such a motion in the Parliament and seek support for it. The best way forward would be for an MSP to make the issue the subject of a members' business debate, adding what John Wilson said about the effect on the rural economy. It is not an appropriate petition for the committee to pass on to the Government.

**The Convener:** I am normally fairly relaxed about procedures, but I think that the petition drives a coach and horses through the committee's procedures and the division between reserved and devolved matters. Robin Harper is right: the reality is that the debate can be pursued in other ways that would probably have greater effect than using the committee.

The subject is important, so I imagine that, as we speak, the Scottish Government is raising some of—although perhaps not all—the issues that the petition mentions. I would expect a minister to have a view on the matters, one way or t'other.

I rarely do this as convener, as I am fairly liberal on such questions, but I suggest that we note the



petition and that proceeding with it would be procedurally inappropriate, unless the clerk is about to tell me otherwise. [*Interruption.*] The clerk indicates that the petition would be inadmissible under the Parliament's rules only if it called on the Parliament to legislate. Members will have different views, but the measured judgment is that the issues can be raised more appropriately in other ways than through the committee. That is what I say as convener, but I am in members' hands. I do not think that there is all that much to get fussed about; the issues can be explored in other ways to great effect, such as by approaching individual MSPs and others.

**Nanette Milne:** If we do not accept the petition and we write to tell the petitioner that, will we let him know of other ways to proceed, in case he does not know of them?

**Fergus Cochrane (Clerk):** The petitioner has described the other action that the Road Haulage Association has taken to resolve the issue before the petition was lodged.

**Nanette Milne:** Sorry—I missed that.

**Fergus Cochrane:** The committee would have to give a reason for closing the petition, to comply with standing orders.

16:15

**The Convener:** That is a helpful suggestion from the clerk. Let us review the debate that we have had. There are different views on the matter—members know my view. I am happy to hear how other members want to deal with the petition.

**John Farquhar Munro:** I do not think that we are going to get any brownie points for just noting the petition and passing it back. I think that we should do something with it. We should pass it on either to the Government or to an appropriate committee, but if we just note it and fling it aside, we will come in for some criticism.

**Rhoda Grant:** We are not in the game of looking for brownie points. We have no locus over taxation, and to pretend otherwise would be to become just a talking shop where people could raise any issue of concern. We must ensure that what we deal with is within the gift of the Scottish Parliament and the Scottish Government to deal with. I am beginning to feel like a stuck record. Petitions that we have dealt with previously have been a lot more blurred than this one and there has been a stronger locus for the Parliament.

The petition is quite straightforward: the main part of it deals with a reserved issue. Even when we received all the correspondence back, we would not be able to do anything about it. We would simply have curtailed the amount of time

that we could have spent on issues that we can do something about. We would also have given false hope to the people who have come to us with the petition. We need to be clear about the issues that we can act on. I suggest that we tell the petitioner that he should refer the matter to an MSP, who could lodge a motion, or to the Westminster Parliament and the UK Government.

**The Convener:** The clerk advises me that the petition is admissible under the rules, but we have different views on the perspectives that the petitioner has raised, which is understandable. Does the committee want to draw the petition to the attention of the Scottish Government so that it can determine how to proceed? If I were a minister, I would probably want to explore one or two of the issues, although whether I would be able to explore them all is a different matter. That is a judgment for ministers to make, not the Public Petitions Committee. Are members happy to deal with the petition in that way?

**Nanette Milne:** The petition raises an important issue for the more remote parts of Scotland.

**The Convener:** Absolutely—I concede that.

**Nanette Milne:** Without taking the petition further, it would be right for us to write to the Scottish Government to let it know about the petition, which raises an important issue for the haulage industry.

**The Convener:** That is a helpful suggestion. Are members happy to do that? Robin Harper looks hesitant.

**Robin Harper:** I wonder whether it would be worth posting the petition on to another committee, such as the Rural Affairs and Environment Committee, for it to note rather than make any decision on.

**The Convener:** In terms of the rules—I choose my words carefully—it is a well-crafted petition that raises a critical issue for certain parts of the country. We recognise that. However, I take on board what Rhoda Grant has said about responsibility for the issues that the petition raises not being with the Scottish Parliament. We can draw that to the attention of the Scottish Government in passing on the petition. If the Government chooses to deliberate on the issues, it can do so. The wisdom of Solomon is required on this one.

I hope that that is a helpful recommendation. Rhoda Grant looks doubtful.

**Rhoda Grant:** I am easier about our closing the petition and copying it to the Scottish Government for its information. However, I think that we are in danger of opening the floodgates. From here on in, we will have difficulty in dealing with petitions that are worded in a similar way, which is a way of

getting around the rules of our petitions system. I am not underestimating the importance of the issue that is raised in the petition; I am just saying that this is the wrong forum in which to raise it.

**The Convener:** Do members have any final contributions on the petition? I know that we are agonising over it.

**John Wilson:** I understand what Rhoda Grant is saying about reserved and devolved powers, but the petition as submitted was accepted by the clerks and has been presented to the committee to deal with. There are rules governing the presentation of petitions to the committee, and we trust the judgment of the clerks when the petitions are submitted. If a petition comes before us, we have to give it due consideration. In committees, cross-party groups and other forums, the Parliament discusses or engages in a number of issues that are not necessarily devolved. For example, we get involved in international affairs, although, under the present devolved regime, that area is not supposed to be in our remit. The debate is much wider and relates to what the Parliament is allowed to discuss and what it is not allowed to discuss.

The petition is simply asking us to make representations to the Scottish Government to ask the UK Government to consider the issue on behalf of the Scottish people. I trust the clerks' judgment. If petitions are submitted that fall foul of the reserved/devolved issue, the clerks will deal with them. However, this petition is before us today, and we have to deal with it.

**The Convener:** Rhoda Grant's suggestion was that we note the petition and draw it to the attention of the responsible Government minister, who could perhaps raise it with the UK Government. Is the committee comfortable with that course of action?

**Members indicated agreement.**

**Fergus Cochrane:** If the committee agrees to write to the Scottish Government, it will effectively keep the petition open. If the committee closes the petition, it will have to give a reason for doing so. However, it could—to be helpful—pass it on to the Government purely for the Government's information. It would then be up to the Government to reflect on what action it wanted to take.

**Rhoda Grant:** The reason for closure would be that the petition concerns a reserved issue.

**Nigel Don:** I take Rhoda Grant's point, but can we close the petition and, in the process, explain to the petitioner that we are not competent to do any more than pass his words on to the Government? We can tell him that that is all we

can do—and therefore what we have done. If we do that, we will have closed the petition.

**Fergus Cochrane:** The standing orders require the committee, when closing the petition, to notify the petitioner of the reason for closure.

**Nigel Don:** We can tell him, "We can do no more than send it to the Government, which—incidentally—we have done."

**The Convener:** That is a potentially helpful suggestion. Does John Wilson have another?

**John Wilson:** Under normal circumstances, when the Public Petitions Committee writes to an organisation or body, we expect it to respond to us. If we are just passing the petition on to the Scottish Government, we are basically saying, "We don't want a response. We don't want to know what you're doing with this petition." It is a matter of whether we want a response. We could end up just noting most petitions and referring them to the Scottish Government, with the Scottish Government just noting that we have sent it those petitions. Is that what we are getting into—noting petitions and passing them on to another body? Effectively, the bodies that we send a petition to could just say, "Well, the committee just noted it. We'll just note it as well", and the petition will end up in the round filing cabinet.

**Robin Harper:** Let us see whether we can think things through a little further and perhaps put the suggestions from Nigel Don and John Wilson together. We could send the petition to the Government, invite a response and let the petitioner know that that will be the end of the process. There is nothing more that we can do once the Government has responded to say whether it has already had conversations, and whether it will have further conversations, with Westminster on the effect of fuel price rises on Scotland. It would be fair to the petitioner, so he does not have unrealistic expectations, to let him know that that is as far as the petition can go because the issue is reserved.

Does that suggestion take things further?

**The Convener:** I will try to be helpful having reflected on the debate so far. A petitioner has the right to have us explore the issues raised in their petition. We cannot pre-empt the view taken by either the Scottish Government or the UK Government. The decision on how to proceed will not satisfy us all 100 per cent, so we have to find a halfway house—something with which we can all leave the room with reasonable dignity. We can ask the Scottish Government about whether it wants to take the matter forward. We can await its response and determine what to do at that stage. That strikes me as the likely solution.

We could indicate to the petitioner the fact that many of, if not all, the matters raised are reserved and therefore do not fall within the powers of the Scottish Parliament. There would be no harm in doing that—we would at least have made that observation. Any petitioner has the right to accede to, or concede, such points.

Is that a reasonable solution to the complexity that I have created in the past 10 minutes? I see many glum faces, but do we have agreement?

**Rhoda Grant:** I do not agree, but I am losing the will to live. *[Laughter.]*

**The Convener:** Keep pushing uphill.

**Rhoda Grant:** We are opening up the floodgates. I reserve the right to come back to the issue, say “I told you so”, and demand that the committee act differently.

**The Convener:** I thank everyone for their patience. I acknowledge the points that have been made about how we address such petitions now and how we should address them in the future. Everyone’s opinions have been helpful and are now on the record. We will do what I suggested and await the response. I hope that we are operating within the rules that so animated the clerk nine and a half minutes ago.

### **Family Mediation Services (Funding) (PE1120)**

**The Convener:** PE1120, by Brian McNair, calls on the Parliament to urge the Scottish Government to review its family law policies and spending levels to ensure that greater emphasis and funding are attached to family mediation services and to providing more focused family support to children.

We have received correspondence on the petition. Do members have any views on how we should proceed?

**Robin Harper:** We should seek further information. Convincing figures show how valuable family mediation services are and how much money and pain can be saved by using mediation instead of going to law. The committee should actively pursue the issue, so I would be happy for us to write to the Scottish Government, Family Mediation Scotland and the Scottish Child Law Centre to invite them to respond.

**The Convener:** The petition raises some fundamental issues. Does anyone else have a view?

**Rhoda Grant:** Can we also write to Children 1<sup>st</sup> and Scottish Women’s Aid? I know that there are concerns about people being forced to undergo family mediation in cases involving domestic violence that has not been established by a

criminal conviction or a legal process. It is important to strike a balance. I have huge sympathy for the sentiments behind the petition, but we must be careful that, in looking favourably at one thing, we do not open up problems on other fronts.

**The Convener:** Okay. Do members have any more suggestions? Should we contact any other organisations?

**Robin Harper:** We should contact the Centre for Research on Families and Relationships.

**The Convener:** Okay. That is helpful. Are there any others?

**Robin Harper:** The Commissioner for Children and Young People in Scotland might like to be contacted.

**The Convener:** Okay. Thanks for that. We will await the responses.

### **Plastic Bags (Environmental Levy) (PE1121)**

16:30

**The Convener:** PE1121, by James Bell, calls on the Scottish Parliament to consider and debate the reintroduction of the Environmental Levy on Plastic Bags (Scotland) Bill. Members will have seen recent media coverage of a major retailer’s decision to charge a nominal sum for carrier bags and will have seen recent statements on the issue by the Prime Minister and the Scottish Government. Do members have any views on how we should deal with the petition?

**Robin Harper:** This is another petition that addresses a live issue that is worth pursuing. We should at least seek the views of the Government, the Scottish Environment Protection Agency and waste aware Scotland.

**Nanette Milne:** Different retailers are now voluntarily doing a lot about plastic bags, so perhaps we should get an up-to-date view from the British Retail Consortium.

**The Convener:** Would it be appropriate to draw the petition to the attention of the member who introduced the bill in question and ask for his comments?

**Robin Harper:** Yes, that would be courteous.

**The Convener:** At the least it would be helpful, given his previous involvement with the issue. He may have a different view now, having gone through the process and been bagged and dragged through the debate, so it would be helpful to have his views on the approaches to take. We will seek views on the petition and await responses.

### **Helen Duncan (Posthumous Pardon) (PE1127)**

**The Convener:** PE1127, by Ewan Irvine, on behalf of Full Moon Investigations, calls on the Scottish Parliament to urge the Scottish Government to make representations to the Home Secretary to reconsider the decision to refuse to pardon posthumously Helen Duncan, who was tried under the Witchcraft Act 1735. The petition was submitted to the Parliament last week. We have received an e-mail on the petition from Lord Moncrieff, which was also e-mailed to the petitioners. I think that most members have a copy of the e-mail from Lord Moncrieff, who I understand is in the public gallery.

Do members have views on how we should deal with PE1127? Members should remember that this petition is specifically on the Helen Duncan issue; a second petition on the general issue has been submitted, too.

**Rhoda Grant:** I should just say ditto for this petition, because I do not want to rehearse the same arguments that I made about PE1119. We should treat PE1127 in the same way as PE1119, because it deals with a reserved matter.

**Nigel Don:** I do not think that I have seen the communication from Lord Moncrieff, so I apologise if what I say should be different. Irrespective of the discussion on PE1119, I am entirely on Rhoda Grant's side on PE1127. I can see no practical purpose in any conceivable outcome from PE1127 or the next petition, which is about the same issue. I genuinely feel that we have got much better things to talk about. With the greatest respect to the clerks, who told me that the petition is competent, I would like to kick this petition firmly over the grandstand and into the canal beyond, because it is not worth our time. It is an interesting lesson in history, but it has no purpose whatsoever. I would like to close it now.

**The Convener:** Okay. We will probably return to the earlier debate shortly.

**Nanette Milne:** I would not put things as strongly as Nigel Don has done, but I agree with Rhoda Grant. Action was recently taken at Westminster: the Home Secretary turned down the request that was made. I cannot envisage any advantage or different result from the Scottish Government making representations to Westminster.

**Robin Harper:** Our legal advice appears to be that neither the Scottish Parliament nor the Scottish Government can overturn a decision that is made by an English court, therefore I see no point whatsoever in pursuing the matter.

**The Convener:** A number of members have said that we should close the petition.

**Claire Baker:** What reasons for closing the petition will we give to the petitioner? We seemed to struggle to find reasons for closing PE1119. Comparable reasons apply to closing PE1127.

**The Convener:** I think that Nigel Don is keen to reiterate what he said.

**Nigel Don:** I am not going to do so. The reasons for closing the petition are that there would be no beneficial outcome, as I said, and that an answer has already come from the Westminster Government, as Nanette Milne pointed out. We would simply get the same answer from the Westminster Government. There is no possibility of receiving a different answer.

**The Convener:** Are members happy to close the petition on the grounds that have been mentioned?

**Members indicated agreement.**

**The Convener:** Okay. That is one each.

### **Witchcraft Act 1735 (Posthumous Pardons) (PE1128)**

**The Convener:** PE1128 is on broadly the same issue, although its emphasis is slightly different.

**John Wilson:** With due respect, it is not.

**The Convener:** Okay. Sorry about that.

PE1128, by Ewan Irvine, on behalf of Full Moon Investigations, calls on the Parliament to urge the Scottish Government to take the necessary action to grant a posthumous pardon to all persons convicted in Scotland under the Witchcraft Act 1735. Do members have any comments on the petition?

**Robin Harper:** I agree with John Wilson. PE1128 is quite different from PE1127: it is about the treatment of women in Scotland in previous centuries. I would not like to close PE1128 for the simple reason that there is a debate to be had. The papers contain a powerful article by Lesley Riddoch that clearly explains why the issue that PE1128 raises is different from that which PE1127 raises. Perhaps it is time in this country's history for us to acknowledge how badly women were treated in previous centuries and to do something to show how we have moved on.

**John Wilson:** My thinking is similar to Robin Harper's. The problem is that referring to the Witchcraft Act 1735 may result in a misconception. Most of the actions in question were taken when Scotland had its own Parliament and legislative structure, before the union of the Parliaments. Robin Harper is right. Women were persecuted and accused of acts of witchcraft that could not be proved by evidence. There was either a failure actually to bring prosecutions against women or, in

the trials that took place after 1735, there was a failure to provide sufficient evidence to show that witchcraft was involved.

It is clear that we are talking about a travesty of the times, which lasted for almost 200 years. Women in particular were persecuted in Scottish society. The matter is nothing to do with English or UK legislation; it is to do with Scottish legislation and things that happened in Scotland. Anybody who visits St Andrews and walks round some of the historic sights will find out what used to happen to women there. Markers show where women accused of witchcraft were burned in the main streets.

Accusations did not need to be verified. I hope that we have all read some of the great works of literature that describe what happened when accusations of witchcraft were made in certain societies. In Scotland, allegations were made against women in particular, and those women were put to death. If, as a Parliament, we review the legislation from 300 or 500 years ago that allowed such things to happen, we will have to acknowledge the persecution of women and the bad parts of Scotland's history. The Public Petitions Committee has the right to ask the Scottish Government to review the situation and to acknowledge what happened.

**Rhoda Grant:** I am not 100 per cent sure how we should deal with this petition. The laws were repealed, which shows that we as a society do not agree with how they were used. This discussion opens up the debate over public apologies. Should we apologise for the sins of our fathers, for want of a better phrase?

We should obtain more information before deciding how to proceed. We have to make a clear statement that women were treated abysmally under the old laws, but I am not 100 per cent sure that a pardon or an apology is needed.

Among our briefing papers is information on the cost of rerunning trials. We do not want to rerun trials, because there is no longer any crime to come to trial. However, society must have a way of putting on record that we do not hold with how people were treated. We can never make up for what happened, but we should have some way of marking it.

**The Convener:** The suggestion is that we write to the Scottish Government for its views. We will await a response before determining whether we can take the matter further.

**Rhoda Grant:** Would it be worth seeking information from equalities groups, for example groups that are interested in women's rights? Women still tend to be targeted in certain areas, so it would be useful to widen the debate. If, on the back of this petition, we can discuss equality

and the treatment of women, we will be able to show that we are serious about such issues. Progress along those lines could be a monument to the suffering of women in past centuries.

**The Convener:** A couple of texts have been identified as source material. It would be useful to hear from academic specialists. I understand the strength of people's feelings, but I do not want to get into an endless examination of what happened in the past. If we do that, we will never move forward; we will merely speculate about all the things that we should or should not have done. We know that certain things happened, and we should put them in context and stress that we would never want them to be repeated, but whether there should be a full pardon is a different question. Let us seek views before deciding what to do with the petition.

**John Wilson:** We should write to the Scottish Inter Faith Council to seek its views on what happened. I do not want to get into what might be regarded as religious persecution, but some of the organisations that were involved in persecuting women were the religious faiths of the time.

**The Convener:** Okay.

## Funeral Costs (PE1129)

16:45

**The Convener:** The final new petition is PE1129, by Paul Dowsland, on behalf of Rights Advice Scotland, which calls on the Parliament to urge the Government to ensure that adequate resources are made available to local authorities to ensure that no family is driven into poverty as a consequence of the cost of a funeral, and to urge the Government to make representations to the UK Government on the funding levels and eligibility criteria under the social fund funeral payments scheme.

This is another petition that cuts across reserved and devolved matters. Do members have any strong views on how we should deal with it?

**Rhoda Grant:** I agree that reserved issues are involved, but there are enough devolved issues. We could make a difference on some of the issues in the petition. For example, Highland Council recently doubled the cost of burials. The Scottish Government has influence over some of the issues, such as charges by local government, so we should consider them. I suggest that, as a starting point, we write to the Scottish Government to ask for its views on the petition. When we receive the reply, we can think again about how to approach the matter.

**Nanette Milne:** I agree that we should take action on the petition. Again, I must declare an

interest, as a co-convenor of the cross-party group in the Scottish Parliament on funerals and bereavement.

**The Convener:** That is reassuring.

**Nanette Milne:** We should probably write to the National Association of Funeral Directors about the matter.

**The Convener:** Absolutely.

I am sure that, at different constituency levels, we have all had experience of dealing with families that are struggling or organisations that try to provide resources for them. It is worth exploring the issues. It would be useful to get perspectives on charging policies, either through the Convention of Scottish Local Authorities or through several individual local authorities. The policies might differ, depending on the availability and nature of burial sites.

**John Wilson:** We should target particular local authorities, given the committee's previous discussions about COSLA. On Rhoda Grant's point, we should get an explanation of the pricing or charging policy in Highland Council and how it impacts locally. North Lanarkshire Council has opened up a new cemetery in the past couple of years. We should consider such issues and find out what the pricing policy is in each local authority.

We might want to ask Glasgow City Council and a rural authority to find out whether there are differences. We have average figures, but there might be disparities in the charges between authorities. It used to be said that individuals from outside Glasgow preferred to be cremated in Glasgow because it was cheaper than in their own local authority areas. We should find out whether there are concerns about that.

We might make representations to the UK Government about cost recovery, which is a reserved matter, but then find that different costs are recovered in different authorities. Discrepancies may exist in charging or pricing policies among local authorities. If so, we should try to get parity throughout Scotland in the costs that people have to pay at what is a time of need for them.

**The Convener:** The Office of Fair Trading is another option that we should explore in considering pricing policy.

**Rhoda Grant:** Can we speak to the Law Society of Scotland about the cost of probate work and of settling someone's estate? That is another associated cost.

**The Convener:** Several organisations have been mentioned. We need to get further

information on the issue. I thank members for their advice.

## New Petitions (Notification)

16:49

**The Convener:** Agenda item 3 is notification of new petitions. Members have a paper for observation and comment that sets out the new petitions that we will consider at the next meeting.

We will now move into private for agenda item 4, which is on our work programme. I thank the members of the public who managed to sustain themselves throughout the meeting for their patience.

16:49

*Meeting continued in private until 17:09.*

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