

PUBLIC PETITIONS COMMITTEE

Tuesday 18 March 2008

Session 3

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PUBLIC PETITIONS COMMITTEE

5th 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 :

Melvin Bell
Cathy Jamieson (Carrick, Cumnock and Doon Valley)
(Lab)
David Manion (Age Concern Scotland)
Sharon Miller
Alexis Stevenson
Jamie Stone (Caithness, Sutherland and Easter Ross)
(LD)
David Whitton (Strathkelvin and Bearsden) (Lab)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERKS

Franck David
Zoé Tough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 18 March 2008

[THE CONVENER *opened the meeting at 14:04*]

New Petitions

The Convener (Mr Frank McAveety): Good afternoon, everyone, and welcome to the fifth meeting in 2008 of the Public Petitions Committee. As always, I ask that all mobile phones and other electronic devices be switched off.

We have apologies from two members. Angela Constance is still on maternity leave and John Wilson is substituting for her. I do not know whether this will be John's final meeting but, lest the changeover take place within the next month, I record our appreciation for the substantial contribution that he has made while filling in for Angela. We also have apologies from Rhoda Grant who has family commitments.

Free Nursery Education (Eligibility) (PE1116)

The Convener: For PE1116, I welcome the petitioner, Alexis Stevenson, who is accompanied by her local MSP, David Whitton. You have three minutes to expand on the petition. The procedure is relatively straightforward: you have a chance to make a presentation, which we will then follow with questions.

Alexis Stevenson: I am grateful to the committee for letting me present my petition today.

The free from three campaign was started after I discovered that my son Sam, who reached his third birthday in October last year, could not access his free nursery place until January this year, which left a gap of 10 weeks. A further problem was that the nursery that I wished him to attend could not hold a place for him from October until January. The nursery suggested that, in order for Sam to get the place, we would have to pay fees for him to cover the gap. If we did not pay the fees, he would have to wait until August 2008 before being given a nursery place. That would have involved a wait of 11 months.

Such a wait would have meant that Sam would have had only three terms of nursery education before starting school in August 2009. The Scottish Executive and our council state that all children should have at least five or six school terms of pre-school education under their belt before starting school. If Sam had started nursery

only in August 2008, he would definitely have had to be deferred, as he would have had only three school terms of pre-school education before his due date for school. Thus, he would have been held back from starting school until 2010. Perhaps introducing a fourth intake in the October week would help parents, as they would then have only a matter of weeks to wait until their child was given a nursery place.

The situation strikes me as unfair. It is unfair not only to Sam, but to many other children who can lose out on places at the nurseries of their parents' choice just because they are born in the wrong month of the year. Sam was lucky, as his grandparents offered to pay for his place. Many other children will not be so fortunate.

As the Scottish Parliament information centre briefing shows, the Scottish education guidelines on accessing nursery places mean that, in the worst-case scenario, a child born on 1 March must wait 21 weeks before starting nursery because the start of the next school term is set at 1 August. The waits are 17 weeks and 12 weeks for those born on 1 September and 1 January respectively.

After taking up my case with my MSP, David Whitton, we set up a petition that quickly attracted more than 300 signatures, although we could easily have got more. Many mums I met had experienced similar problems in getting nursery places for their children.

We also contacted all 32 local authorities to try to get a picture of national provision. We discovered that three local authorities—Stirling Council, Scottish Borders Council and Shetland Islands Council—have a policy of allowing entry once children have reached their third birthday. However, the rest—including my local authority, which is East Dunbartonshire Council—follow the education department guidelines.

On 6 March, in response to a question during general questions in Parliament, the Minister for Children and Early Years, Adam Ingram, announced that the Scottish Government is now considering starting nursery entitlement from the age of three as one option for delivering on the Scottish National Party's commitment to achieving its target of a 50 per cent increase in nursery provision by 2011. We should not have to wait that long. The children of Scotland should not have to wait that long. Such a measure could be introduced now, at the stroke of Mr Ingram's pen. I certainly hope that it will be adopted as the option for increasing nursery provision.

Unfortunately, any such measure will be too late for my son, Sam. However, I hope that children who are born this year will automatically be provided with a nursery place when they reach their third birthday.

The Convener: Thank you very much, Alexis. I assure you that you did not sound nervous. I know that you were worried about that.

Does David Whitton wish to add anything before we move to questions from committee members?

David Whitton (Strathkelvin and Bearsden) (Lab): Thank you, convener.

I first raised the issue in Parliament during the debate on early years and early intervention back in October. Coincidentally, the minister launched the Government's early years strategy only today. In October, the Cabinet Secretary for Education and Lifelong Learning, Fiona Hyslop, said that she thought that the suggestion was worthy of consideration.

When I raised the issue again during question time two weeks ago, Mr Ingram said that the SNP Government is now looking at the suggestion as one option for increasing nursery provision by 50 per cent by 2010-11. We had not yet seen the final details of that, so we decided to press ahead with the petition. As Alexis Stevenson has outlined, we would like the suggestion to be adopted as the main option. We also believe that it could, and should, be adopted sooner.

The Convener: Committee members now have the opportunity to put questions to Alexis Stevenson on the ideas behind the petition.

Claire Baker (Mid Scotland and Fife) (Lab): I have read the points in the petition about your experiences of trying to get your son into nursery. Will you explain a little more about the costs that you had to pay? I could not believe the cost that was charged, or perhaps I did not follow.

Alexis Stevenson: The costs depend on the month in which the child is born. My son Sam's birthday is in October, so he should have gone automatically to nursery the following January. However, I was told that the nursery would be full in January and that it was more than likely to be full at Easter, so he would have to wait until August. I had to weigh up what would happen. I was told that, from Sam's birthday in October until January, I could pay a private fee, then his funding would kick in in January and he would be in the nursery for two years. The fee was £200, which perhaps does not seem a lot to many people, but I have friends who were told about fees of £650 or £800 because their child was born in other months, which, unfortunately, were the wrong months. It costs a lot of money.

Claire Baker: So the costs covered the period from October until January, at the same nursery at which Sam then continued in January.

Alexis Stevenson: Yes.

Claire Baker: You said that, when you applied for a place, no space was available to start in

January. Why was there a space when it came to continuing in January?

Alexis Stevenson: That is a good question, to which I have had no answer to date. I do not know how the nursery can justify saying, "Sorry, we are full and we can't get your child in in January, but if you pay a private fee, we can get him in." It comes down to money. There are only three intakes during the year, but the nursery told me that, if a fourth intake was introduced in October, more money would come in. There would be four terms a year and children would have to wait weeks, rather than months. It all boils down to the money.

Nigel Don (North East Scotland) (SNP): My questions are on exactly the same tack, because I am still completely confused. If there was a place, there must have been enough teachers for there not to be too many pupils, whatever the ratio may be. It would not have cost the providing authority one cent for an extra teacher to provide that place. Is that your perception of what went on? In other words, a place was available, and the costs were not affected by Sam's being there, so there should not have been a charge.

David Whitton: There is a difference between private nursery provision and council nursery provision. Sam was to be going to a private nursery, because his big brother had been at that nursery and he will go to the primary school nearby. It was beneficial for Sam to go to the same nursery as his brother. However, it is a popular nursery and it could not guarantee that it could keep the place. Alexis would have been entitled to the free provision, but only from January, and the nursery said that it could not keep the place unless it was paid for.

Nigel Don: Right. So the logic is that it is a private nursery and it will give a place only to someone who is prepared to pay, if the local authority is not prepared to pay. The nursery would rather not give Alexis the place, on the off-chance that somebody else would come along and pay for it. In other words, the situation is an effect of the nursery's being private, whereas if it had been—as I initially presumed—a local authority nursery, the costs would already have been covered by the council. In that situation, the logic would not have applied and the nursery would not have been able to charge for the place.

Alexis Stevenson: That is correct, but when I inquired about the local authority nurseries in my area, I was told that they would be full in January and definitely in April, obviously because the kiddies are still there at that time. So, again, it would have been August before he could get in. Everywhere was full. Sam has been penalised because he was born in the wrong month. Trying to get a nursery place is horrendous.

Nigel Don: I will extend the issue. You say that the nursery was full in January, which suggests that there is simply insufficient provision. It would not have mattered whether Sam was born in October, December or January, because the nurseries would have been full anyway. Is that fair? I am trying to tease out why the birthday is relevant. If the nursery is full anyway, why does Sam's birthday matter?

Alexis Stevenson: That goes back to the point that I made earlier. How could the private nursery justify saying that there were no spaces, but that if I paid a private fee, he would get in?

Nigel Don: Sorry—I was talking about the local authority nurseries being full. You said that Sam would not have been able to get a place in January—or was it April?

Alexis Stevenson: It was January and April.

Nigel Don: Right. But with respect, if the local authority nurseries were full, your son's birth date would be irrelevant. There was not enough provision and even if he had been born in December, the result would have been the same. Have I missed something?

14:15

David Whitton: I am not sure that you have missed anything. It is generally accepted that there is a shortage of nursery provision throughout Scotland. Your party launched a policy statement on early years and early intervention today and has set a target for a 50 per cent increase in nursery provision.

However, if a child is born between August and January it is more difficult to access a nursery place. Many parents cannot afford to pay for a private nursery place and so rely on getting places in council-run nurseries. The starting date presents a difficulty: Alexis's son was born in October, but he could not be accepted at a nursery until January. If all the council places are taken up, parents have to fall back on private nurseries, which say, "Sorry, but we won't accept your child unless you pay between October and January, to guarantee your place."

Claire Baker: I understand the financial situation. It is common for private nurseries to provide the nursery care to which three-year-olds are entitled. As Mr Whitton said, the issue seems to be the period between the child's third birthday and the date when a funded place becomes available. The difficulty for Alexis Stevenson was that the place did not come up until January. Three months is a long time in a toddler's life and education.

The Government's early years policy statement was published today, so you probably have not

had a chance to consider it in detail. Are there indications that the Government is considering the matter?

David Whitton: The Cabinet Secretary for Education and Lifelong Learning said in October that the matter was worthy of consideration. A couple of weeks ago the Minister for Children and Early Years said in response to a question from me in the Parliament that the Government is considering access to a nursery place from a child's third birthday as one of two options in the context of increasing nursery provision by 50 per cent by 2010-11.

We contend that children are currently being penalised, so why should we wait until 2010-11? Why not introduce access to funding for a free nursery place from a child's third birthday? As Alexis Stevenson said, it would also be enormously helpful to have a fourth intake point, in October.

John Wilson (Central Scotland) (SNP): I am loth to get into political point scoring with Mr Whitton about whose policy is currently operating, but I understand that we are trying to resolve an issue in the previous Executive's early years strategy. I hope that the new Government's policy statement, which was launched today, will resolve the matter. I agree that the entry point into nursery for three-year-olds needs to be examined. We seem to be tied to school intakes, which means that children miss out for up to 21 weeks, through no fault of their own, according to the committee's briefing paper.

However, the committee must consider a wider concern, which is the use of private nurseries to provide places. From what Ms Stevenson said, it seems that private nurseries are taking advantage of the system and telling parents that if they want to guarantee their child's place they must pay up front. There is an issue about whether the private sector should be able to hold parents and local authorities to ransom in that way.

There could be a case for examining the nursery provision in each local authority area, particularly East Dunbartonshire, and how the authority selects the nurseries to use and how it pays them. There might be a wider issue in how the private sector is using its influence to make profit off the backs of parents who do not seem to have much choice if they want their children to go to particular nurseries.

The Convener: I did not hear a question in that—it was just an observation. We will tie up the different threads at the end.

Bashir Ahmad (Glasgow) (SNP): How long before the admission was the baby taken to the nursery?

Alexis Stevenson: Sam started in October, a week after his birthday. We had to pay from the week after his birthday until 1 January. On 1 January, council funding kicked in.

Bashir Ahmad: You knew when the baby was due.

Alexis Stevenson: Yes.

Bashir Ahmad: And you never took the time to tell the nursery people that your baby was due on such a date and would be in nursery from such a date.

Alexis Stevenson: The nursery that Sam is in accepts only children who are three and over—that is its policy.

It is hard to explain. Whatever date your child is due, the last thing on your mind is that you will need to think about nursery provision for them three years down the line. I have an older son, who was born in August. I applied to a nursery in Kirkintilloch for his place and he got straight in without a problem. I had my second son, applied for a nursery place and then hit the problems. It is because the child is born in the wrong month. It is not our fault.

Bashir Ahmad: I did not follow you. You knew when the baby was due. Did you not inform the nursery of that and that you wanted a place from such and such a date?

Alexis Stevenson: No—that system does not work. It is hard to explain.

David Whitton: To be honest, it would not make any difference. The nursery's policy is to take a child only when he or she is three. Because of the Scottish education guidelines, the nursery accepts the child for a Government-funded place only at the next intake, which was January in this case. Even if the nursery had known that Sam was to be born in October and would be three in three years' time in October, it would not have made any difference. It would not have kept the place for him.

Bashir Ahmad: It is not a question of keeping the place. If the nursery knew that it would get children whose birthdays were at that time of year, it should have allowed for that. There are only so many children that it can take and each child should have had a queue number.

Alexis Stevenson: I put Sam's name down for the nursery a year and a half before the January he was due to start and was told at that point that there should not be a problem. It is a popular nursery and has waiting lists, but when I went to inquire again a year and a half down the line, I was told, "Sorry, we're full." It does not matter when the child's name is put down; it all depends on the number of children already in the nursery

who turn three before your child and the spaces that are therefore left available for the January intake.

Bashir Ahmad: Convener, sorry to bother you, but if you could understand—

The Convener: From what I have picked up—if I am wrong, Alexis, you can correct me—getting into the nursery was seamless for the first son and there was no sense that there might be a problem with the subsequent son. You were first confronted with the difficulty when you put him forward, irrespective of whether the nursery provision was through the local authority or private model.

There is an issue about the relationship between the private sector and your needs. You obviously want your son to go to the nursery that his older brother was at, because you are used to it and its proximity is perhaps more appropriate than others. The nursery probably knows that and thinks that it can perhaps squeeze a wee bit of cash out of you in the intervening period.

On the broader picture, we have a copy of the Government's consultation paper. I was on the Education Committee prior to the election, and we looked at early years education. Much of what was in that committee's report on early years will be reflected in the paper. There is a common view on the bigger picture of policy development for early years education in Scotland. I presume that the consultation will deal with what happens when guidelines are interpreted in ways that work against the interest of ensuring that parents have a place for their child. Given what ministers have said in response to parliamentary questions, I think that there is a willingness to explore that.

The purpose of your petition is to try to assist the process, but we have to get an evidence base for the discussion that we will have. I am trying to pull all that together for your benefit, because it is a tough shift where you are sitting. Do not worry about it, okay?

Nanette Milne (North East Scotland) (Con): Is there a need somehow to tie in school intakes with nursery intakes? Is there a significant discrepancy between the two? Should they match?

Alexis Stevenson: The system has always worked in the same way, as far as I am aware. The nurseries follow the school terms. The schools have four terms, if we include the October week, but the nurseries have only three. Introducing a fourth intake in October would help a lot of parents and prevent them from having to pay a private fee. It would also reduce by several weeks the period for which children have to wait to start at nursery.

Nanette Milne: Logically, that would seem to be a better match.

Alexis Stevenson: Yes.

John Wilson: In your opening comments, you suggested that there can be a knock-on effect. You said that the January intake was full and that you would have had to wait for the next intake in April. How prevalent is that? How many other parents are affected in the same way? I am trying to determine whether there is a general underprovision of nursery places that means that children have to wait. In your case, there would have been a three-month wait from January until April. We need to consider the wider issue of whether there is enough provision. Is there a wider concern about the number of places that are provided not only by the public sector but by the private sector?

David Whitton: I return to the general point. It is clear that there is a shortage of places. When a child takes up a place in August, they tend to be there for the next year. They do not go to school until the following summer, so no places are released unless somebody happens to move away and give up their place. In Sam's case, the nursery confidently predicted that, if he did not take up the place in October, he would not get in until the following year. The nursery knew from its figures that nobody would leave.

We tried to find out the experience throughout the country. We wrote to all 32 local authorities and asked whether they had a free at three policy. As we heard earlier, only three local authorities said that they did, and even they were implementing it on an ad hoc basis. They were not advertising the fact that they were doing it. They just did it.

If I came across to Mr Wilson as trying to make a political point, I would have to—

The Convener: A parliamentarian would never do that.

David Whitton: Exactly. I certainly was not trying to do that.

I came to the issue because Alexis Stevenson came to me with a problem. When we investigated, we found that it did not exist only in East Dunbartonshire and that there is a wider problem. It is clear that children are being disadvantaged because they cannot access a nursery place because they were born at a certain time of the year. To me, that is fundamentally unfair, and it was not intended when the legislation was set up.

I gently remind Mr Wilson that the previous Executive introduced free nursery places for three and four-year-olds. I have already acknowledged that both ministers are sympathetic to our cause. We hope that a free at three policy will be introduced earlier than 2010.

The Convener: I think that there is a broad consensus about the petition. It is appropriate that our consideration of it coincides with the announcement of the consultation. I note with interest that the period for responses is tight. The deadline is 18 April, so people have only the next month or so to respond.

I suggest that we pass the petition to the Government for information as part of the consultation process. However, there are a number of other things that we can do with the petition, and we will bring it back to the committee when we have explored those options. I invite members' views on how we should proceed.

14:30

Nigel Don: Mr Whitton said that he had written to all 32 local authorities, but we, too, should write to some of them to get a view on how they will tackle the issue and what the principles are. We could also write to the Association of Directors of Education in Scotland. It should have a pretty clear view of what directors of education are doing.

The Convener: Yes, that would be appropriate. Perhaps we should write to the authorities that are the pioneers in the field.

David Whitton: We have our e-mail correspondence with all 32 local authorities. I am more than happy to make it available to the clerk.

The Convener: That would be useful.

John Wilson: We should also contact the Scottish Pre-School Play Association to ask about general provision. We should try to get under the skin of the issue to discover which local authorities are providing what. Concern is being expressed about public sector versus private sector provision. The association is in a good position to advise us on the authorities that are delivering services themselves and those that are buying in services from a provider.

The Convener: Given that there are no further suggestions, I will summarise for the petitioners our proposed action on the petition. We will forward the material that you provided us with to the Government as part of the broader consultation. We would welcome any additional information that you have gathered—Mr Whitton offered that. We will write to the major agencies or organisations that have an interest in early years commitments and investment asking for their observations. We will also follow up on John Wilson's suggestion and ask who the providers are and what they provide. There is also the question about timing.

The clerks will distil the information that we receive into a paper that will come before the

committee in due course. You will be notified in advance so that you can come to the meeting at which we will again discuss the petition. You do not need to feel nervous about that, as you receive an invitation to speak at the top of the table only for this first hearing.

I hope that that is helpful. The issue is important, not only for those of us who have children under the age of five, but for the long-term investment in early years education, which all the evidence tells us makes a real difference to the long-term future of the country and our children. Thank you for taking the time to come before the committee. I hope that the process has not been too difficult for you. I also hope that it will benefit you in the long run.

Personal Expenses Allowance (PE1125)

The Convener: PE1125, by David Manion, on behalf of Age Concern Scotland, calls on the Scottish Parliament to urge the Scottish Government to review and raise the current rate of personal expenses allowance, which does not reflect the true cost of living, to allow care home residents to have independence, dignity and a good quality of life. A short time ago, I welcomed the petitioners to the Parliament. Today, I welcome to the meeting the petitioner, David Manion, and Ann Ferguson.

David Manion (Age Concern Scotland): Thank you very much. This is an occasion of special significance to us, because the petition is the first that Age Concern Scotland has presented to the Scottish Parliament.

On behalf of the people we represent, I thank the committee for hearing us. I will focus on clarifying and amplifying the reasons for our petition and will draw on information that we have recently received from the Department of Health in England and on the publicly available *Official Report* of the Health and Sport Committee's meeting on 27 February. We have copies of correspondence to pass to the clerks later, if necessary.

At the heart of the issue in our petition, which calls for a review of the rate of the personal expenses allowance, is whether elected politicians in the Scottish Parliament consider that the current rate is acceptable and whether elected members have the political will to assert their authority on how the issue should be dealt with.

The Scottish Parliament has the authority to vary the level of the personal expenses allowance, as the National Assembly for Wales has already done. The Welsh Assembly set a rate for the PEA of £20.88 a week, pre the forthcoming uprating on 7 April. The rate for the rest of the United Kingdom pre the uprating is £20.45 a week.

The Scottish Parliament does not have to accept the way in which an issue is dealt with by UK ministers. In this case, there are a number of reasons why it does not have to do so. In our view, the Department of Health stakeholder group that advises on the "Charging for Residential Accommodation Guide" has not discharged its responsibilities satisfactorily. The group was set up by the Department of Health to facilitate consultation on the CRAG with regard to implementation in England. Its membership is drawn from English local authorities and England-based organisations. Scottish representation is limited to one civil servant, who only has observer status. Furthermore, the group has not met since June 2007.

An e-mail from the Department of Health to members of the stakeholder group contains a commitment to consult on the personal expenses allowance "later in the year". In an earlier e-mail to the stakeholder group, which was sent on 29 January, the department noted that it planned to consult over a three-month period

"on conclusions reached within the stakeholder group".

In our view, that approach is inadequate. There is no guarantee that any proper research will be done on the level of the PEA, nor is there any indication as to when the issue will be dealt with. There is a lack of clarity about the nature and content of any consultation and no commitment has been given to hearing the voices of the people who are most affected—older people in care homes and their relatives and carers.

The issue is not being dealt with sufficiently urgently. We challenge the suggestion in the Scottish Parliament information centre briefing that members have before them—which is based on the *Official Report* of the Health and Sport Committee's meeting of 27 February—that the stakeholder group will report on the consultation in April or May of this year. As I said, the content of the consultation has still not been agreed and the start date of the three-month period is still not known. Given that it is expected that the group will report in April or May, I do not know how that circle can be squared. A further year could go by before the outcome of any consultation is known.

There has been no review in Scotland and, as I am sure that MSPs will appreciate, there is a world of difference between a proper review—the word that we use in our petition—that is based on evidence and which has transparent and accountable processes, and an ill-defined, potentially tokenistic consultation on the rate for the PEA that local government finance officers in England judge to be appropriate.

We would like the Public Petitions Committee to refer our petition to ministers and to the Health

and Sport Committee to ensure that a proper review takes place, that the poorest older people in care homes are given a say in the PEA settlement and that the issue is dealt with, as it should be, here in the Scottish Parliament by a proper process.

The Convener: Thanks. I now invite questions from members. David Manion or Ann Ferguson should feel free to respond to the questions. I am sure that members will ask questions shortly, but I will ask a question first. David, you spoke strongly about the process. Do the Parliament or ministers within the appropriate departments have the powers to make the decision that you seek on PEA parity for individuals in care homes?

David Manion: Yes, they do. This is—

The Convener: Is that disputed?

David Manion: No.

The Convener: As long as we know that.

I did not mean to cut you off, but I wanted to establish that the powers could be exercised.

David Manion: Indeed they could. It could be done through a Scottish statutory instrument. The upratings have historically been nodded through, on the recommendation of the Department of Health stakeholder group, which we think is not doing a very thorough job.

Claire Baker: I have some questions about the cost. The estimated increase of £1.1 million is for the uprating that is already planned for April. I examined the figures suggested by the family budget unit at the University of York—the recommended figures are £24.31 for women and £26.22 for men. Do you have an estimate of what the additional cost would be if we went for those recommended levels?

David Manion: Yes, I do. Obviously, the cost of an increase depends on the amount by which the PEA is increased. Age Concern Scotland has deliberately not set a figure, because that would contradict our stated position that the level should be the subject of a proper review in which evidence is taken—there should not be a consultation on a rate that has been predetermined by local government finance officers in England. In rough terms, a £1-a-week increase from £21.15 to £22.15 would cost about £1.5 million a year, a £3.85-a-week increase from £21.15 to £25 would cost about £5.9 million a year, and an £8.85-a-week increase would cost about £13.5 million a year.

Claire Baker: Our briefing indicates that Age Concern Scotland believes that the increase in the PEA would be covered by increases in benefits and other income increases. The Scottish Government has also suggested that the increase

in the PEA would be

“roughly balanced by increased contributions from residents”

and from the Scottish Government. At what levels would the costs be balanced by money coming into the system from increased contributions?

David Manion: It is assumed that increasing the PEA would be cost neutral, because of other income increases—assuming that increases are in line with inflation. The PEA is an allowance that is left over for older people in care homes to spend—it is their pocket money, for want of a better expression—after all their other care costs have been met by the local authority. If there is an above-inflation increase in the PEA, assuming that all the other increases are in line with inflation, the extra cost to the Scottish Government budget would be the difference between an increase in line with inflation and what the Government ends up paying.

Nanette Milne: Am I right in thinking that there has been no report from the Health and Sport Committee following its evidence session in February? If so, is a report likely to be forthcoming, and when is it likely to be published?

David Manion: As I understand it, although the Health and Sport Committee asked a number of questions of civil servants, it did not want to fully debate the petition, because it knew that it was going to be considered by this committee. It felt that the petition should come to this committee before going back to the Health and Sport Committee.

Nanette Milne: So we are in a chicken-and-egg situation.

David Manion: Yes. We got to the Health and Sport Committee before we got to the Public Petitions Committee.

14:45

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good afternoon, folks. I want to ask a simple question to clarify matters in my own mind. You have obviously done quite a bit of research on what happens under other Administrations. How does the PEA in Scotland compare with the PEA in care homes in England?

David Manion: It is exactly the same at the moment. However, as I indicated earlier, it is slightly more in Wales.

John Farquhar Munro: The difference is marginal. There is no significant difference.

David Manion: Not at the moment.

The Convener: I have a couple of questions. Who picks up the cost in Wales?

David Manion: If an increase is above the rate of inflation, the National Assembly for Wales picks up the cost.

The Convener: So the budget of the Welsh Department for Health and Social Services essentially takes on the additional cost.

David Manion: Essentially.

The Convener: Okay. Is the stakeholder group likely to meet the timescale of reporting just after Easter?

David Manion: There are a number of questions around that. First, the stakeholder group south of the border has not met since June 2007. Secondly, it indicated fairly late in the day that it plans to consult on all aspects of charging for residential care, including the PEA. In reality, however, that consultation is most likely to be on the rates that are set for the PEA and care charging. As far as we are aware, there is no evidence that the group will research how the PEA figure is arrived at. In addition, we do not know what sort of consultation it will be or to whom the stakeholder group will speak; indeed, we do not know whether the Scottish Parliament will be consulted. All we know is that one line in an e-mail from a Department of Health civil servant said that the PEA figure will be open to consultation.

The consultation has not yet kicked off. Members will see from the *Official Report* of the Health and Sport Committee's discussion of the petition that there was a view that the work of the stakeholder group might put the Scottish Parliament in a position to make recommendations in April or May. However, the three-month consultation has not started yet, so that is clearly not going to be the case.

There must be a proper evidence-based review of how the PEA figure was arrived at in the first place and of what the true costs are for older people in care homes. There then needs to be a proper public debate in which you, as elected members, decide the terms of the debate, as opposed to the present situation in which you appear, I have to say, to have little influence over the debate.

The Convener: What has been said seems to have triggered the interest of a member who is here for the next petition. If it is appropriate to do so, I invite Cathy Jamieson to ask a question on this petition.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): Thank you, convener. As you said, I am here for the next petition, but I was struck by similarities between what David Manion said and what I experienced when I worked in the voluntary sector with children and young people in the care system. I worry about arrangements

becoming dehumanised or depersonalised. Can you give us examples of the things that the PEA is intended to cover, to indicate what the situation is like for elderly people? Also, would it be appropriate for the Scottish Government or another organisation to obtain directly the views of elderly people who are affected?

David Manion: Older people who live in care homes still need to purchase clothing and footwear. Their items are worn out more quickly by being washed by commercial laundries. Anyone who has experienced hospital linen, for example, will know that it does not exactly fold, it sort of cracks.

There is no guidance on what care homes should provide from their fees, so many residents have to pay for non-prescription medication, toiletries, haircuts, outings, fruit, snacks, magazines, tissue paper, newspapers, books, telephones, pens and paper—all the things that many of us take for granted as part of a reasonable lifestyle. Many older people in care homes also want the occasional social drink. There are many things for them to shell out on using their daily allowance. However, as the BBC reporter observed when filming us handing in the petition, the cost of a sandwich in the subsidised Scottish Parliament is more than the daily allowance that older people get as pocket money.

I am sorry, will you remind me of your second question?

Cathy Jamieson: How can the views of elderly people be taken into account when an appropriate rate for the PEA is being calculated, and how can that information be fed back into the wider consultation?

David Manion: We are talking about older people in homes who have no means of paying for their care, so the local authority is paying for it. They are people with no assets and no disposable income. They are among the poorest and the most vulnerable older people in Scotland. One of the things that concerns us most about the approach that has been taken to date is that their voice has not been heard at all. The proposed consultation is somewhat ambiguous, so we have no guarantee that they, their relatives or their carers will be listened to. It is within the power of the Scottish Parliament to insist that they are listened to.

Claire Baker: Cathy Jamieson has raised important issues, and I would like to continue the discussion. You have supplied us with case studies. Have you evaluated people's quality of life? You highlighted differences between care homes in terms of what they provide, and among your examples were toiletries and newspapers. Are such issues important to the debate?

David Manion: We talk to older people a lot, including older people in care homes. We have not done any formal research into their quality of life, but it does not take too much of a leap of understanding to know that, if a person has a very small sum of money to spend each day on the little essentials, it can make a big difference to how they feel about the life that they are leading and the choices that are available to them.

When we started our campaign before Christmas, I talked to a couple of older residents who expressed shame that they could not afford to buy their grandchildren any gifts for Christmas because their personal expenses allowance did not stretch to cover such things. It is fair to say that a great many older people feel inadequate. They feel demeaned if, for example, they are taking handouts from relatives for basic items or are having to accept second-hand clothing. I heard of one case in which a lady was wearing the clothes of somebody who had died in the home, because she did not have the money to buy her own clothes. A great many care home residents are in a psychologically vulnerable or exposed position, and their not having the resource to exercise a degree of independent choice is demeaning and undermining of confidence.

There is an image of older people in care homes as being extremely reticent and inactive—just sitting in a chair, nodding away. How we treat older people in such settings, including how we deal with the PEA, plays to stereotypes that are extremely unhelpful for older people and Scottish society as a whole. What does it say about us as a civilised nation that such situations pertain?

Age Concern Scotland will not make unreasonable demands of the Parliament, unlike some people. We are not conjuring a figure out of the air and asking you to increase the allowance by a tenner or forty quid or whatever; we are asking for evidence-based research and for the opinions of older people and their carers and relatives to be taken into account. We should consider the overall budgetary impact of an increase in the PEA. A modest increase of £1 or £2 would be a drop in the ocean for the Scottish Government budget.

Sorry, did you ask another question?

Claire Baker: How relevant is it that there are different levels of provision in care homes? For example, some care homes provide toiletries and some do not.

David Manion: It is relevant. Members of the Scottish Parliament will be aware of the expression “postcode lottery”. There is not exactly a postcode lottery, but it would certainly help if there was more understanding of what the allowance is expected to cover. That is why we

are calling for research, so that we can ascertain what people should anticipate being able to obtain in care homes.

A great many older people in care homes have had a long and hard life and will not have enjoyed the opportunities to work and build up savings that many younger people are enjoying. The position of women in the pensions system is well known in that regard. People have the double whammy of having had a hard life and being in a care home.

Nigel Don: I heard everything that you said, and I recognise relatively small numbers when I see them. The figures alone make the point well. However, although it seems sensible to ask the Scottish Government—or any Government—to do research, I cannot help but think that the process would be long, which might not be necessary. Age Concern might be able to do a little qualitative research that would be as well informed as any work that the Scottish Government might produce. Academics in other areas have masters students. There must be folk who would be interested in doing research for you and getting a qualification in the process—I am not plugged into the system, but I suspect that there are such people. Could you provide a quicker route to the answers that you are looking for?

David Manion: You could give us a grant to do that work. That is the usual reaction of voluntary sector organisations—

Nigel Don: I cannot give you a grant for anything. That is the problem.

15:00

David Manion: On a more serious level, we would be happy to inform research and to provide evidence and so on, but if Age Concern conducted the research, people would think that we had a vested interest in the results. It would be far better for such research to be commissioned at arm's length by the Government, rather than by us, to ensure that the research is seen to have a degree of objectivity. In the public arena at least, people might not associate objectivity with a charity that campaigns on behalf of, and with, older people.

Nigel Don: That point is well understood and well made, but what you suggest need not be the case, if you are clear on the face of the research. If Age Concern Scotland—or I—estimated the monthly costs of getting one's hair cut, buying toothpaste and so on, the items involved would be recognisable and people could check the numbers against the prices in supermarkets and so on. Some pretty objective research could be put together quite quickly, and it would not be challenged just because it came from Age Concern Scotland, because its reasonableness

would be visible. To be honest, I do not think that you should be so worried.

David Manion: It is important to build a degree of consensus into the process. If the research was commissioned by the Government, it would involve not just Age Concern Scotland but care home owners, local authorities and the raft of other stakeholders who are associated with what is, after all, a fairly complex charging regime. Although we have the capacity to provide good written evidence—we have made many such submissions to the Parliament—I venture to suggest that there would be a symbolic value in such research being initiated by the Government, which would thereby show its right and proper concern.

The Convener: I am conscious that time is moving on, so I will allow only two more questions.

Nanette Milne: Given what we have heard today, I imagine that most of us have no difficulty in accepting that the petition raises a serious issue. However, although it is fine to ask the Government to commission research, I wonder how best we can go from considering the issue in the Public Petitions Committee to reaching that sort of level. Should we involve, say, the cross-party group on older people, age and ageing? Should we simply send the petition to the Health and Sport Committee? What is the way ahead? The petition raises a big issue that needs to be taken forward, but we need to consider how we do so.

David Manion: We have presented the petition because we have had difficulties with the Department of Health stakeholder group, which we feel has not made adequate progress. By referring the matter to the minister—who, in fairness, is not unsympathetic—and to the Health and Sport Committee, the Public Petitions Committee could help to keep up the pressure and keep the issue on the agenda.

The Convener: Thank you for reminding me of our responsibilities.

Robin Harper (Lothians) (Green): Speaking as a member of the cross-party group on older people, age and ageing—I do not know whether that is a declarable interest—I suggest that involving the cross-party group would be almost a regressive step. To pick up David Manion's point, we are looking for the quickest way forward. That means either pressing the Health and Sport Committee to take the issue forward or initiating action ourselves.

The Convener: The argument that has been made today is obviously a challenge to us all. When I served briefly as a Deputy Minister for Health and Community Care, one of the most embarrassing moments was having to sign off the

correspondence when the PEA regulations popped up. I would always look at the figures and say, "We should do something about that." To be candid, we never quite got round to it, because other issues had—whether fairly or not—a much higher priority within the health portfolio.

There is a broad consensus on the need for dignity in old age—I am hurtling towards old age, like everybody else. We need to consider what we should do for folk who find themselves on a low income and with no resources but who need—as many of us will at some stage in future—to go into a care home. We need to consider the value that we place on individuals in that situation.

Three issues should be considered. First, I am pretty sure—even without looking at policy developments—that the new Government has a manifesto commitment to create a strategy for older people, to tackle the challenges that they face. I am sure that the other parties had similar commitments in their manifestos. That gives us an opportunity to raise the issue with the appropriate ministers, and we should do so as a matter of urgency.

Secondly, we should consider the practical process issues that David Manion has identified, such as the role of the Scottish Government vis-à-vis the Department of Health and the Scottish Government's observer role in that department's stakeholder group. We should identify those issues in our correspondence with ministers.

Thirdly, I take on board David Manion's point that the research should not be commissioned from the campaigning organisations. I respect what they do, but we need to ensure that the research is authentic and is part of a system of consistent review. The PEA was probably set at a relatively low level, which has then hardly shifted, despite economic changes such as increases in the cost of living. We need only consider how the costs of the minor purchases that we all make have increased suddenly in the past few months due to the global economic situation.

I think that we have a consensus in the committee on the need to accelerate matters by pursuing them with ministers and with the Health and Sport Committee. We have had a pretty compelling evidence session this afternoon. Age Concern Scotland will not be alone in its concern, as I presume that Help the Aged and other organisations with a similar perspective have similar concerns. We need to try to change the Government's perspective and its relationship in the decision-making process.

We also need to consider where increasing the PEA fits in and how we persuade people. In a sense, the issue ultimately is whether people have the will to do something. All of us as elected

members—including those of us who have been ministers—are sometimes confronted with making decisions that could be positive or negative. Sometimes we make the wrong decision and receive opprobrium for it—that is life—but sometimes we can make the right decision.

Let us distil the issues. We should raise the petition directly with ministers. It would help if Age Concern Scotland gave us further information on the process that was agreed on in Wales. That would not be a bad model to examine, as I imagine that the decision was made by the relevant Welsh minister rather than by the whole Assembly. It would also be useful to have information on the other issues of concern.

I know that I have gone on a bit, but this is one of those issues on which we know that the policy is not right but we have not got round to sorting it out. Given the presentation from Age Concern Scotland today, let us see whether we can help to get it sorted out.

Do members have any other positive suggestions on how we should take the issue forward?

Having heard what we have said, David Manion will know that we are not unsympathetic. As with everything else in life, the issue is about navigating through the murkiness of decision making to see whether we can solve the problem. We will return to the petition as soon as we can. I thank David Manion for his time today.

We will take a five-minute comfort break. I know that the folk who will speak to the next petition are keen to continue, but a number of us are reaching the age when we need a comfort break after drinking two bottles of water.

15:08

Meeting suspended.

15:14

On resuming—

Rural Schools (Closures) (PE1132)

The Convener: PE1132, by Sharon Miller on behalf of the community of Sorn, calls on the Scottish Parliament to urge the Government to consider whether it is satisfied that when local authorities are considering the closure of a rural school where there exists higher than average pupil attainment, attendance and capacity levels and lower than average cost per pupil, they give sufficient recognition to the adverse impact of the closure on rural sustainability and development and to the additional capital and other costs of transferring the pupils to another school, and

whether the directions and guidance to local authorities fully reflect such circumstances.

Additional information accompanies the petition, and the petitioners have previously been to Parliament. I welcome the constituency MSP Cathy Jamieson, the petitioner Sharon Miller and Melvin Bell.

I know that you have been here since the beginning of the meeting, so you will know the format. You have three minutes to expand on the petition, and I will then invite questions from committee members.

Sharon Miller: Thank you for the opportunity to present further evidence on the petition to save Sorn primary school.

In November, East Ayrshire Council began a consultation on the closure of four high-performing rural primary schools: Sorn, Littlemill, Crossroads and St Xavier's. Parents from all four schools are vehemently opposed to closure and have been running a vocal campaign. The decision will be made tomorrow at a cabinet meeting.

In making our case to oppose closure, we have addressed a number of issues. The key points have been provided in the information supporting our petition. In short, we have been unable to find any evidence of revenue saving, educational benefits or school roll decline. Capital investment is required in all the buildings, but that is largely due to the neglect of routine maintenance in the past few years.

The guidance on school closure reissued by Fiona Hyslop in October 2007 clearly sets out recommendations of factors that local authorities should consider. Although comprehensive, the guidance allows a great deal of room for manoeuvre. For example, in our neighbouring authorities of North Ayrshire and South Ayrshire, our case would have been referred to the minister because our school roll has been at more than 80 per cent capacity in the past 10 years. East Ayrshire Council has said that we do not qualify for a ministerial referral.

Reading the guidance in detail, I find it hard to see why our school was ever considered for closure. The building is usefully occupied at no less than 78 per cent capacity, regardless of which definition is used; we have excellent attainment results and Her Majesty's Inspectorate of Education reports; the cost of educating a child at our school is about £1,000 cheaper than at the alternative schools proposed by East Ayrshire; and attendance is above the regional average.

Ms Hyslop states that authorities should demonstrate the educational advantages for the pupils directly affected by closures. East Ayrshire Council has been unable to do that. The guidance

urges authorities to consider, among other factors, the impact on rural sustainability and development. East Ayrshire's consultation completely fails to address that issue.

The authority has claimed that it has an overprovision of primary places, but it has recently exacerbated the situation by extending the schools at Galston and Mauchline. Furthermore, if the overriding aim was to tackle that, one would assume that the authority would have targeted other schools in its area where occupation is at only 50 per cent or below.

The guidance states that the process should be transparent and that justice should not only be done but be seen to be done, but East Ayrshire Council has withheld information from the campaigners and presented figures in a far from transparent fashion. In producing its recommendations, it added large amounts of new data to bolster its case, which had not been consulted on and were not made available to the public until two working days before the decision. Sandy Longmuir from the national rural schools network has dealt with local authority school closures all over the country. He assures me that East Ayrshire is not alone in those practices.

The strict criteria for ministerial referrals mean that there is no higher authority to which we can report East Ayrshire's conduct. If the decision goes against the school, the only mechanism to appeal is judicial review, which is costly and time consuming. It does not seem just that democracy should depend on the ability to meet legal costs.

The upheaval created by the proposed closures cannot be overstated. The process is highly disruptive and distressing for pupils, parents and staff, especially when, as in this case, it is timed for over the Christmas period.

I urge the committee to call on the Scottish Government to tighten the criteria for schools recommended for closure, to ensure greater consistency of implementation of ministerial guidance throughout the country and to introduce a mechanism to appeal decisions. Finally, I ask that the Scottish Government offer some protection to the small schools that are the heart of our fragile rural communities.

The Convener: Thank you, Sharon. I invite Cathy Jamieson, as constituency member, to add a few comments, although I am conscious of the time.

Cathy Jamieson: I will be brief, because Sharon Miller has presented an excellent case in relation to not only Sorn primary school but some of the wider issues that require to be addressed. In my view, if East Ayrshire Council had embarked upon the consultation process saying that it was about costs or school places, there might have

been some argument for that, but it has tried to suggest that the school closures will go ahead on educational grounds. I do not believe that that stacks up, and I have a number of answers from the Minister for Schools and Skills that would seem to back up my position.

One difficulty is that there is no definition of what constitutes a rural school. The reality is that a number of different definitions of rurality are used in respect of what is remote rural, accessible rural and so on. There is no definition that authorities can easily apply when they conduct consultations.

It would have been possible for East Ayrshire Council to consult in a different manner, which would have given all the parents and the communities the information that they required. One of the problems in East Ayrshire is that the authority has gone straight to proposing schools for closure and views the consultation as a statutory one. Instead, it could have followed a different model by taking an overview of what is required of the whole school estate and engaging and consulting parents on that. The neighbouring authority in South Ayrshire is now doing that. I do not accept that there was no other way for East Ayrshire Council to conduct the consultation.

A number of issues require to be examined. I appreciate that the committee may not feel able to intervene in a decision about a specific school, but the case highlights areas in which the Government could usefully examine the definitions and look again at the guidance that is issued to local authorities.

Nanette Milne: I commend the petitioner for submitting the petition. I am sure that I am not the only committee member who has been in a similar situation. I have fought against school closures in Aberdeenshire and also one or two in Morayshire. The arguments that Sharon Miller put forward are ones that I have heard before. She has a very reasonable case.

I do not have any questions but I point out that, as you will know, one of my colleagues, Murdo Fraser, has a member's bill that would introduce a presumption against the closure of rural schools. I do not know whether he has yet had a meeting with the minister and, if so, what the outcome was, but I know that he was to meet the minister to discuss the matter. I hope that the Parliament will eventually take the line that there should be a presumption against closing rural schools. Not only do many such schools provide a very good education but, as Sharon Miller said, they are the hub of the community and everything else happens in them. Therefore, if the community loses the school, it has serious consequences. Good luck.

Robin Harper: I suppose that this is as much a question as a statement. Phrases such as

overprovision seem to be subjective. It would be possible for an authority to add a couple of classrooms and then find that it did not have pupils in them. It is a distortion of reality to call that overprovision. If a perfectly good school nearby is operating well and is 80 per cent occupied, there is not overprovision; there is just an extra classroom.

Melvin Bell: One of our frustrations is that it seems that a council can decide which figure it uses in its guidance. A good example is the difference between planning capacity, working capacity and the school roll, which can be significant. For example, at Sorn we have a pupil roll of 72 and a capped capacity of 75. In essence, our numbers should be the right proportion, but the working capacity is classed at 92 and the planning capacity is classed at 101. Even if we found 32 extra pupils, we could never actually have them in the school because one part of the legislation says that we can take no more than 75. Planning, however, is based on 101 pupils.

As members of the community, we feel disfranchised because we are excluded from using a mechanism that was put in place to provide oversight and governance—the 80 per cent rule—because we can never attain that level because our capacity is capped at 75. The oversight feels distant, which is frustrating. We feel as if we are losing something without our voice being heard.

Nigel Don: That situation, although distressing, sounds incredibly familiar. This is actually very simple. As I am sure the petitioners realise, we cannot interfere with the local council—that is beyond our gift. However, we should write to the Government to point out the dilemma that Mr Bell has outlined and the fact that the numbers seem to be as manipulable as many accounting numbers are. They clearly do not provide the defence mechanism that I am sure ministers assume they do. I hope that we can at least bring that to their attention.

The Convener: That is a useful suggestion. I think that the broad view of the committee would be to support raising that matter.

Do members want to ask any other questions?

Bashir Ahmad: The first thing that the previous Government and Prime Minister Tony Blair wanted to do was to educate the nation—we remember his slogan, “Education, education, education.” This Government undoubtedly supports education, so I do not understand why the authority is doing what it is doing.

The Convener: Ultimately, that is the issue that the petitioners will confront tomorrow as the process at the local level is gone through. As one or two committee members have said, although we can be sympathetic about their plight, we do

not have any direct influence on that decision-making process. They will articulate a powerful argument to the council committee, but they are obviously looking for the framework made by legislators in Parliament to be much more effectively interpreted than seems to be the case. That is the issue.

We need to pull those comments together into one or two positive suggestions. Nigel Don has made the good suggestion of raising the matter directly with the Government. Cathy, do you have a further suggestion?

Cathy Jamieson: I want simply to return to the points made by Sharon Miller and Melvin Bell in their presentation, in which there were a number of suggestions on what could usefully be done.

Nigel Don’s suggestion is helpful, but we need to ask the Government what constitutes a rural school. There is an issue about the numbers, as has been mentioned, and there is also an issue about the appeals process. I draw the committee’s attention to the process adopted in East Ayrshire, which initially meant that the petitioners were not allowed to present their case at the council cabinet. That decision has been overturned, but still only cabinet members in East Ayrshire Council will take the decision; the local councillors for the areas where the schools are situated will not have a vote. That prompts some questions of natural justice, and the petitioners have made the sensible suggestion that we need to consider having an appeals process for similar situations that is not a judicial review which, as the committee will appreciate, is both complex and costly.

The Convener: Are there any other suggestions from members?

15:30

Nigel Don: What Cathy Jamieson has just said suggests to me that there may be a lack of democracy at the local authority level. We cannot wave a magic wand at that, but it suggests that we should ask the appropriate part of Government how it feels about local issues being dealt with centrally in a local authority, apparently without local input. Whether that has actually been the case is another matter—I do not want to get into a dispute about the facts—but there seems to be a principle that we might want to ask the Government about.

The Convener: John Wilson looks quizzical.

John Wilson: Yes, convener. One of the difficulties that I have is that a number of decisions have been taken recently by local authorities at a localised level that have then been countermanded at a higher level by the local authority in question. The issue is getting the checks and balances in local authorities right.

I am particularly concerned about decisions on rural schools. A number of people have clearly outlined the problem for such schools. We need to get a definition of rural schools and consider their success and their school rolls. We should highlight to the Government the issues that are involved to try to ensure that local authorities are aware of the pressures and demands that exist in communities, particularly rural communities. A very successful school has been described to us. The school roll is high—the school is almost at its maximum capacity—but local authority officials have presented it for closure for no rhyme or reason. That ties in with issues to do with the decision-making process in the local authority, the level at which such decisions are taken and whether the local authority education committee or its policy and resources committee should make the final decision.

There must be a role for Government ministers in overseeing what happens in local authorities throughout Scotland at whatever level. We have been given a good example of a rural school that could be closed although it ticks all the right boxes in respect of its good educational provision. We must try to ensure that that does not happen. There will be cases in which reasons may exist for closing schools to achieve economies of scale, but it is clear that no such reasons exist in this case. The committee must take the issue to Scottish Government ministers and, in particular, to local authorities. We must tell them that we want to monitor what they are doing about rural school closures, because we want to ensure that every child in Scotland, whether they live in an urban or a rural area, has the best educational opportunities—Bashir Ahmad mentioned that. We must ensure that well-maintained and well-used schools are preserved in order to continue to provide such opportunities.

Robin Harper: We must remember that article 12 of the United Nations Convention on the Rights of the Child, which this country has signed up to, states that the views of children should be heard and they should be consulted on decisions that intimately concern their wellbeing and their future. We are discussing a situation about which children's views should certainly be heard and on which they should be consulted. I wonder how much they have been heard and consulted.

Melvin Bell: I appreciate the comments that have been made and, obviously, I accept that we must consider the wider issue rather than the specific case. However, there is another important aspect that we have mentioned. Schools and other services in rural communities perhaps have a higher impact on their communities than schools and other services in other areas have. We can see that in Sorn in particular. We wonder how much emphasis is put on other values to the

community when decisions are being taken to close schools on financial or other grounds.

For example, four years ago, our community set up after-school care, which the community pays for. We employ three full-time staff to look after the children from 3 o'clock until 6 o'clock every school day. That has meant that more than 28 families in a small rural community have been able to go back to work or full-time education, to retrain and so on. That initiative is not given any weight within the process because it is not seen, although it has an impact. The community is 735-strong or so and 28 families in it are doing something different with their lives and are promoting the area's prosperity are sustaining the rural economy. It is important for them to be able to bring their children up in that environment. The consultation process does not consider that. Surely some weight must be given to the wider impact of school closures.

The Convener: We have had a good question-and-answer session that has focused on the issues that are of concern to the petitioners. Members have made two or three substantial suggestions, and we have made a note of those so that we can take them forward: one is about definition; the second is about the wider impact and the much more central position of schools in some parts of Scotland because of the economic and social interrelationships that they have with the community; and the third is about what is expected of the education department and about guidance and how it is interpreted locally.

I am sure that the petitioners will articulate their concerns very strongly tomorrow at what will, I hope, be a constructive meeting with the local authority.

One or two other suggestions have been made and we have a note of them. If there are no other comments or observations from the committee, I have two things to say.

First, the meeting tomorrow is critical because the council will make a decision. I hope that the decision can be delayed or the position reviewed, as a different model of consultation might allow local authority members to arrive at a different conclusion than the apocalyptic one that the petitioners have been confronted with. Secondly, we will raise the guidance issue with the Scottish Government and other local authorities through the Convention of Scottish Local Authorities. We will also have to take on board what might be contained in the proposed member's bill on rural school closures and the presumptions behind any decisions on closure.

I hope that that is helpful for the petitioners. Obviously your minds will now be on tomorrow and you have the good will of the committee that you will present your case effectively and that the

local authority will consider making the decision that you are looking for. I hope that today has been helpful and we will keep you posted.

We are now finished with the oral presentations for this afternoon. Next we have a series of petitions on which we have received correspondence and papers. We have a lot of material to get through so I hope that we can make progress.

Mordechai Vanunu (PE1122)

The Convener: PE1122, by Vanesa Fuertes, on behalf of the Scottish Palestine Solidarity Campaign, calls on the Scottish Parliament to urge the Scottish Executive to make representations to the UK Government to ask the Israeli Government to lift all restrictions on Mordechai Vanunu and allow him freedom to travel. Do members have any suggestions about how the committee should deal with the petition? We have the correspondence and papers in front of us.

Nanette Milne: I wonder how we could possibly further the aims of the petition ourselves, given that it very much concerns a reserved matter. Should we just close it because of that?

John Wilson: Convener, as you are probably aware from the debate that we had at the previous meeting of the Public Petitions Committee, I think that there is an onus on us to consider petitions in relation to which our role might be to apply pressure, for example on local government, as with the previous petition, or to try to influence other organisations. When we are presented with petitions from the public in Scotland, the committee has a role to play in taking on certain cases in relation to which we can and should make representations to the appropriate bodies, whether at a UK or a wider level.

In this case, I would like to think that the Public Petitions Committee will take the matter on board. We could write to the Scottish Government, urging it to make representations to the UK Government. The case is about how an individual has been treated by another country and has international significance. I am not inviting such petitions from other areas, but given the international events that are taking place as we speak, other such petitions, containing representations on behalf of certain groups, might land at the committee's door. In this case, I press the committee to contact to the Scottish Government, urging it to make representations to the UK Government on behalf of the petitioners.

Claire Baker: I would be more inclined to support Nanette Milne's suggestion. I take John Wilson's comments on board, but the UK Government has a position on the issue, whereas the Scottish Government does not seem to take a

position on it, which is appropriate, as it is clearly a reserved matter. In the circumstances, I cannot see what we can add to the suggestion that the Scottish Government pursue the Westminster Government on the issue.

Robin Harper: I was present at Mordechai Vanunu's installation, in absentia, as rector of the University of Glasgow. The students who were there at the time thought that that was a good way of drawing attention to the fact that he was being detained in a most inappropriate fashion. I acknowledge the fact that this is a reserved matter, and it is up to the Scottish Government how it wishes to proceed, but as long as we can frame it in a way that makes it clear that we are simply making a strong representation to the British Government, we should do that. I would be disposed to back John Wilson's suggestion.

The Convener: I declare an interest, as I signed the parliamentary motion that was broadly in favour of the proposed course of action that is being petitioned on. I have argued in the past about the issue of reserved and devolved matters. It is a classic catch-22 situation.

I should make it clear that we have no powers over such issues in the Scottish Parliament. However, petitions may be submitted to the Parliament, which we must table for consideration by the committee. That is why the petition is on our agenda today. As individual members, we may lodge motions for members' business debates on such matters or motions calling on the Scottish Government to raise issues with the UK Government or other appropriate bodies with the relevant powers.

I read with interest in our papers that measures have been taken by the UK Government to try to address the issue through the Israeli ambassador and using other Foreign Office mechanisms. There is an awareness of the sensitivities of the situation.

We have two opposing positions, and I could put the matter to a vote. Alternatively, we could recognise by the public statement that I have just made that we have no powers on the issue, although we could draw the petition to the attention of the Scottish Government. Should it wish, it could raise the matter directly with the UK Government.

Nanette Milne: I will not argue with you over that.

The Convener: I am trying to get a broad consensus, recognising that we each have different political positions on such issues and recognising the role of the committee and the powers of the Parliament—but also the importance of the situation facing Mordechai Vanunu and the symbolic message about how we engage with

individuals involved in very difficult issues on the international stage.

15:45

Nigel Don: We are stuck between a rock and a hard place on this one, and we know it. I do not wish to disagree with you, but in this particular case—which is of huge significance symbolically, if nothing else—we can do absolutely nothing other than write a letter. Having done so, we could close the petition, because we would have done all that we could. My fear is that doing that might—as has been suggested—be an invitation to anybody who wishes to raise any foreign matter to generate a similar petition, changing a few of the names, that invites us to write a letter to the Government espousing that particular position. If we seem to have opened the floodgates, our approach would have to change—we might be setting a precedent.

The Convener: I recognise that, and we should perhaps discuss it, as we are always reviewing the procedures of the committee and how we handle business. Given the nature of the petition and the powers that we do not have, what members have said so far leads us to the most sensible conclusion. Progress is the issue raised by the petitioner, who recognises the role that we—and others who are much more critical to this—can play in the debate about not just Mr Vanunu but the broader issue, which is of concern to all members in the Parliament. Can we send the letter, to indicate that we are passing it on, and formally close the petition?

Fergus Cochrane (Clerk): No. If we write formally to the Scottish Government, we must wait for the response.

The Convener: We will wait for the response. I will never understand clerk world, but the clerk has now explained to me that he must get a response before he can make a recommendation.

John Farquhar Munro: Are we not writing to the Westminster Government?

The Convener: We are raising the matter with the Scottish Government, as the petitioners have asked us to do.

School Closures (PE1130)

The Convener: PE1130, by Scott Reed, calls on the Parliament, in light of the City of Edinburgh Council's proposal regarding Drummond community high school, to urge ministers not to grant consent to school closure proposals while the school roll exceeds 80 per cent of the school's capacity. I know that there has been a change in circumstances due to the council drawing back from those proposals, but the broad issue that the petitioner raises is still there for debate.

Do members have any recommendations on how to deal with the petition? It is not dissimilar to PE1132 in terms of the questions that it asks, so we should perhaps raise the matter with the minister who is responsible for education and with the appropriate authorities in the Accounts Commission.

Nanette Milne: We should find out the position of one or two other councils. I suggest Aberdeen City Council, because a number of school closures are pending there.

The Convener: Okay—thank you for that recommendation. That was short and sweet, but we can make progress on it.

School and Public Libraries (PE1131)

The Convener: PE1131, by Wajahat Nassar, calls on the Parliament to urge the Government to consider guidance that can be issued to local and education authorities on literature that is made available in local authority and school libraries.

I wonder if members have any views on the petition. Am I at liberty, as convener, to say that I do not agree with the petition? I have read it and the accompanying material that I received by e-mail from the Scottish Library and Information Council, which outlines the principles on which that body operates—I do not know if all members received that. The petition would, in a sense, preclude a substantial amount of material that is freely available in any other circumstances from being available for consideration in Scottish public libraries. It is almost absolutist in terms of its mechanism. Perhaps I am getting that wrong—do other members have a view?

Nigel Don: Perhaps I can articulate part of your problem, convener. The fifth bullet point in the list of issues for discussion in our briefing concerns

“literature which incites religious and/or racial hatred”.

The only person who will judge that something incites hatred is someone who has decided that they are offended, and there is no one quite as easy to find as someone who chooses to be offended. I struggle to see how we could create a provision that is not otherwise known in Scots law.

The Convener: As is made clear in the briefing papers, the law already provides frameworks within which material is publishable. I know that the interpretation of those is currently being discussed as part of an on-going process at United Kingdom level, but I think that the broad parameters are already laid down. Good judgment is required.

As someone who was for a period convener of Scotland's largest library service, I know that our local authority was at great pains to ensure that the material that was made available promoted

equanimity. Although people sometimes asked for materials that were potentially offensive to other sections of the community, we had to operate within the broad parameters and, by and large, I think that we got it right.

The problem with the petition is that its proposal would make things so lop-sided that we would end up with 25 other problems instead of the issue that is the petitioner's immediate concern. However, I have probably said too much as convener.

John Wilson: I agree with the convener. I find it interesting that page 2 of the petition states that

"Freedom of speech is the basic right of every writer"

and then proceeds to list all the things that people should not write about. We want freedom of speech to certain levels and degrees, but the petitioner's proposal could empty most of our library shelves because of the comments or passing references that books might make to particular deities or particular members of the royal household. Our libraries would need to discount a large percentage of the modern literature that is published if we were to agree to the petitioner's wishes. Although he acknowledges freedom of speech as a basic right, he then contradicts himself in his suggestion about how we should impose that.

The Convener: Can we reach a conclusion on how we should deal with the petition? We could close the petition on the ground that, as Scots and UK law already allow for that flexibility of interpretation, it would be inappropriate to consider the petition any further.

Nigel Don: It occurs to me that supporting the petition's proposal would require us—this is not a philosophical argument—to rewrite most of our history. Given that we are not in that business, I think that we can close the petition on that basis.

The Convener: Are we agreed, on balance, that we should close the petition on the grounds that Scots and UK law already provide protection for human rights and freedom of expression and that there is already an awareness that people should not use deliberately inflammatory language that could offend religious or ethnic minority communities?

Members indicated agreement.

Planning Applications (Objections) (PE1133)

The Convener: PE1133, by Jean Mullan, calls on the Scottish Parliament to urge the Scottish Government to consider whether it is entirely satisfied and content with the procedures and timescales for notifying persons who are affected by planning applications and how it ensures that

every local authority follows the correct procedures to ensure that no individual's human rights are infringed and that each is given the opportunity to exercise their right to object to the application.

As well as the papers in front of us, I received an additional communication this afternoon about the process that petitions go through. It should be understood—I repeat this point at reasonable opportunities—that we cannot invite every petitioner to make a statement to the committee, but I can assure all petitioners that their submissions and accompanying papers are read thoroughly and assessed by committee members before we address them at this stage. We have made that point about a number of other petitions during the past half year or so. I ask people to understand the time management issues that we face as a committee.

I am happy to hear any comments or observations from committee members about the papers that they have in front of them.

Robin Harper: Given that the issues are being consulted on, I suggest that we contribute to that by simply forwarding to the Scottish Government the issues raised in the petition—I imagine they have been raised with the Government already—to reinforce the petitioner's concerns. We do not need to take evidence on the petition when the consultation is in progress—to do so would be confusing.

The Convener: Essentially, the petition is asking about the notification procedure. In this case, the petitioner feels aggrieved about how that was handled at the local authority planning level. I wonder what the guidelines for local authorities are now under the Planning etc (Scotland) Act 2006. It is a difficult area to deal with, but we should explore some of the issues raised by the petitioner by writing to agencies with relevant responsibilities, such as the Royal Town Planning Institute in Scotland, and to the Government about its overview of planning notification. The petitioner's case might be a particularly difficult one, but there are probably tons of similar cases across Scotland. I take it that we are happy to do what has been suggested. Do members have any other suggestions about organisations to write to?

John Farquhar Munro: The 2006 act is to come into force and we should give it time to become established. We could ask the Scottish Government when it intends to commence the provisions.

Nigel Don: I wonder whether our good friends at Planning Aid might throw some light on these matters. I am sure that they often meet this kind of situation, but I do not know whether they can

comment on this particular case or on the principles behind it.

The Convener: Okay. We will continue the petition and write to the Government, the Royal Town Planning Institute in Scotland and Planning Aid about how the new planning system's regulations and framework have been implemented and how notification issues are monitored. We will await responses to that.

Current Petitions

Adults with Learning Difficulties (Provision of Services) (PE743)

“The same as you? A review of services for people with learning disabilities” (Implementation) (PE822)

“The same as you? A review of services for people with learning disabilities” (Findings) (PE881)

15:58

The Convener: The next item is consideration of current petitions. The first three petitions have been broadly put together, but I recognise that there are differences between them. The petitions are PE743, PE822 and PE881. Essentially, they all relate to “The same as you? A review of services for people with learning difficulties”, which the former Government adopted as its policy in this area. Its broad principles are still part of the new Government's strategy. The petitions call for a number of options around the implementation of “The same as you?”, such as ensuring that people with learning disabilities are given the support to live at home like anyone else, and urging a review of services to ensure that those with profound and complex needs are properly cared for.

This substantial series of petitions has been in our system for a long time. Members have in front of them a lot of documentation on the petitions, which they have had the chance to look over. Are there any strong views on how to deal with the petitions? I am worried about the fact that they have been in the system for a substantial time. Given that the issues involved are fundamental ones about the dignity of human beings, I would like to think that we can do a bit more to change the dynamic of the petitions.

Robin, do you want to comment on any of this?

Robin Harper: Not directly.

The Convener: I thought you were nodding agreement with me, so I was going to let you in. Do committee members have any strong views on how we should deal with the petitions?

John Farquhar Munro: There is a big problem nationally because “The same as you?” has not been implemented equally across the board. The fact that different local authorities have different criteria with regard to what should be provided under “The same as you?” is causing some educational establishments considerable difficulty. Certain establishments within the same local authority area are treating the programme in a

different way to other establishments and we must be very sure about what is being proposed so that we have a level playing field in all local authorities.

Claire Baker: Although the original petition has been around since 2004, there have been changes to local authority funding and it might be worth while asking the Scottish Government about the proportion of funding that will be allocated under the concordat to the services highlighted in the petitions.

The Convener: That is an important point. Another issue is the timescale that we are talking about here. "The same as you?", which was a commitment made by the previous Government that is being continued under this Government, is all about local service redesign for individuals with disabilities and the amount of ownership that those people have. Having been involved with the policy at ministerial level, I realise that, as with the issues raised in the previous petition, when you try to drive these things forward you have to deal with tons of other things, and I do not think that we have got the approach absolutely right yet.

As a result, I suggest that we write to the minister, seeking a progress report on the current implementation of "The same as you?" and asking whether, if it is part of the new concordat with local government, anything has been put in place to demonstrate progress. When I was minister with responsibility for health, I would receive criticisms about our commitment to the policy on the ground. The fact that people were not receiving the same level of commitment was perhaps understandable, given that the policy was being interpreted differently in the 32 councils. While people in some local authority areas were benefiting from very good carers packages or allowances that had been set aside in social work budgets, people in other local authority areas were not getting the same things and therefore felt aggrieved. There were so many inconsistencies in the implementation of the policy that it, quite understandably, bounced back to the door of the minister.

This discussion is not unlike our previous discussion about the petition from Age Concern Scotland, as we are dealing with some of the most vulnerable people in our communities. We should seek a progress report from the Government—and I do not want to wait too long for it. It is suggested that we suspend consideration of the petition for six months. However, I think that we should see what progress has been made in implementing the policy, ask about the current situation with regard to the concordat and ask COSLA directly about how it is directing councils through the concordat to deliver "The same as you?" more effectively than they have in the past.

I am sorry that I have gone on a bit, but I want to pull everything together.

Nigel Don: Should we put the ball in the Government's court and, instead of presuming that we know the answers to these questions, ask when it can tell us something substantive about its review of the local authority outcome agreements?

The Convener: I think that we should be blunter than that. With these issues, unless you chap the door loudly, no one will hear you knocking. The fact is that the first of these petitions has been in the system since 2004 and the issue is still before us. We want to see what progress has been made. There are tons of things that should have been done, but have not. We are all culpable. No matter whether we are working at a local or national level, we are all responsible for dealing with these issues.

Can we also refer the petition to the appropriate parliamentary committee for information?

Fergus Cochrane: We can give it a copy for information.

The Convener: We should draw the matter to its attention. It might be interpreted as an antagonistic move, but that particular committee should be made aware of the situation.

Nanette Milne: Which committee are we talking about?

The Convener: I would have thought that it would be the Health and Sport Committee, but we can let the clerks worry about that. Those are the kinds of questions that they anguish over in the night.

Family Law (PE944)

The Convener: PE944, by Gary Strachan, calls on the Scottish Parliament to urge the Scottish Government to investigate why, under Scottish law, there is no presumption of equal access to children or equal residence for children with both parents after separation, and to investigate bias against fathers as equal parents in the court system, why contact orders are not enforced and why parental responsibilities and rights are ignored by medical, welfare and government institutions to children's detriment.

We have the papers for the petition. Do members have any observations on how we should deal with it?

Nigel Don: The issue is of considerable personal interest. It is also of interest to several of my constituents. All that we can probably do is to write to the Scottish Government to remind it that there is a real issue here and to ask it what it is doing. Point (c) in the letter from the Government, which refers to the investigation into why contact orders are not enforced, is a bone of considerable contention. Although I understand why the

research exercise was not procured—I know that there are ways of doing things and that in this case they did not quite work—quite a number of folk out there are anxious for progress on the issue. The excuse may be fine, but excuses will not do. We have to find a way forward and we should be encouraging the Government to do that.

I notice that there is a project on data collection in selected sheriff courts that is due to report in March 2009. I wonder why it takes us so long to do research. Eighty per cent of what you are going to find out, you discover in the first month, qualitatively if not quantitatively. I do not understand why we cannot get a handle on what is going on sooner than the final report, which always seems to be far too late.

The Convener: That is a helpful suggestion. We have all got caseload that shows up substantial anomalies in the court system, particularly on parental rights for men. Let us try to explore that. Does anyone have any other observations on the petition?

John Farquhar Munro: The strange thing is that if a court order is made for access for one or other parent and agreed and stipulated through the court, but is not adhered to or is violated, nothing happens. Why is that? If someone was in breach of any other kind of court order, they would be in Barlinnie tomorrow.

The Convener: I have yet to confront that experience, John. Note the word “yet”.

We have been dealing with the petition for a while, but there are still unresolved issues. Despite the recent changes in child contact and sheriff orders and so on, in the past month at least three other elected members have in general conversation raised with me the lack of enforcement of court orders and access being ignored by individuals. That is not acceptable in respect of the legislative framework. Let us explore the options that were raised by Nigel Don. We will not close the petition until we get some response on that basis. Is that agreed?

Members indicated agreement.

Sleep Apnoea (PE953)

The Convener: PE953, from Ms Jean Gall, on behalf of the Scottish Association for Sleep Apnoea, calls on the Scottish Parliament to urge the Executive to increase awareness of sleep apnoea, to promote proper diagnosis and treatment and to provide sufficient resources to tackle the health problems that are associated with obstructive sleep apnoea. Do members have suggestions on how we should deal with the petition? It has been in the system for nearly two years, which is a lengthy period to be in the petitions structure.

Nanette Milne: It is a significant issue. I do not know how many road accidents and so on have been caused by someone falling asleep at the wheel because they suffer from the condition. I note that there is to be a review of Scottish intercollegiate guidelines network 73 in 2008-09. We need an update on how quickly those guidelines will be updated.

The Convener: Do members want to close the petition or will we wait for the update? The Government is writing to all national health service boards to identify issues at a local level and to raise awareness of the needs of sufferers. Would Nanette Milne like to explore the issue further?

Nanette Milne: Within the past year, I have been informed by one constituent that things are not the same in all health boards—there is better provision in some than in others. I would like to know that they are all on an equal footing.

The Convener: Will we pursue that issue and try to bring the petition back a bit more expeditiously once we get that information?

Members indicated agreement.

Duchenne Muscular Dystrophy (PE965)

The Convener: PE965, by Dean Widd on behalf of Parent Project UK Muscular Dystrophy (Scotland), calls on the Parliament to urge the Government to ensure that sufficient funding and resources are available to ensure that the needs of people with muscular dystrophy are met.

The petition is straightforward and we want to make progress. I suggest that we write to the Government to ask whether any action will result from the meeting held between campaigners and the Minister for Public Health. That will allow us to determine how best to proceed.

Nanette Milne: A members' debate was held on this issue not so long ago, at which the minister made sympathetic noises.

The Convener: This is another petition that has been in the system for nearly two years. We shall try to get a response from the Government quickly.

Members indicated agreement.

Swimming Pools (Investment) (PE966)

Leisure Facilities (PE990)

Community Sports Facilities (PE1041)

The Convener: PE966, PE990 and PE1041 are mainly to do with community leisure facilities and investment in swimming pools. They have been in the system for a long time: the most recent goes back to this time last year, but one goes as far

back as June 2005. We have many papers to consider; the petitioners have been lobbying at various levels, not only here at the Parliament.

The Health and Sport Committee is undertaking an inquiry into pathways into sport. I have been involved in the issue, and a key factor is that the range of facilities is uneven throughout Scotland. That can inhibit participation. Another key factor is the statistics on health. Robin Harper has consistently raised the issue of outdoor recreation centres, which he is very keen on.

We should refer these three petitions to the Health and Sport Committee, to assist it with its inquiry. However, we could keep them open for our benefit.

Fergus Cochrane: If you refer them on, they will pass to the other committee.

The Convener: Do members agree that the other committee would be the most appropriate one to deal with these petitions?

Nigel Don: I do not disagree with that suggestion, but I am reading the last paragraph of a letter from one of the petitioners, which says:

“As stated in our previous correspondence we do not believe the Petitions Committee have progressed this petition in the slightest.”

To those who examine what we do, I want to stress that we do not have any executive power. We can write letters, we can encourage, we can exhort, and we can state our opinion on the record, as we do. However, because we have no executive power, there will be occasions—and this may well be one of them—when nothing much seems to happen in three years. That is not for want of trying. It may be that one or two petitioners do not understand the process and assume that we have magic wands when, in fact, we do not.

The Convener: There is an opportunity. A major inquiry into a policy area is being undertaken by a committee. Substantive issues that petitioners have raised might be dealt with there.

As has rightly been said, some questions thrown up by petitions are to do with local partnerships and commitments on investment. The answers are in the power of others. We are all in this together in Scotland—whether we are MSPs, councillors or petitioners. We have to raise the issue of sport as a tool for improving our country. There is a long way to go. We had brief hope after the Calcutta cup last week, but that hope was dashed again on the grass of Italy. There are highs and lows. That is my modest interpretation of events last Saturday, as opposed to my immodest contribution to 80 minutes of football.

Plants (Complaints) (PE984)

16:15

The Convener: PE984, by Colin Watson, on behalf of Scothedge, calls on the Scottish Parliament to introduce legislation to provide local authorities with the power to deal with complaints regarding vigorous growing trees, hedges, vines or other plants. I welcome Jamie Stone MSP, who is here because he has a particular interest in the subject. Members have the papers relating to the petition before them. Would Jamie like to say something? He has been patient with us this afternoon.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I thank you, convener, and the committee for allowing me to join you for this agenda item. The issue that the petition raises is not solely an urban phenomenon; it exists in my far-flung constituency as well, and my constituents are on to me about it—even those who live in the wee fishing village of Balintore. There is an element of frustration out there because we have been talking about the issue for so long and nothing has been done, although Scott Barrie, who is no longer an MSP, put in some laudable work to advance the situation.

I appreciate the point that is made in the papers that the Scottish Government is considering the issue and that the committee should perhaps wait to see what happens. I am very much in the committee's hands. I just wanted to say that the issue is not simply one that affects urban areas; it affects places in Caithness, Sutherland and Easter Ross as well.

John Farquhar Munro: I sympathise with Jamie Stone, my colleague from Caithness, Sutherland and Easter Ross—a constituency that is substantially overgrown by trees. However, that is not the problem. I get complaints about the issue in my constituency of Ross, Skye and Inverness West, where neighbour disputes often develop because of high trees and hedges.

Away back in the first session of the Parliament, a petition was lodged that called for the restriction of hedges to a height of 2m—that petition has obviously got lost in the files somewhere. The next time that we debated the subject was when Scott Barrie's proposal for a bill was brought before the Parliament in 2006. A lot of growth has taken place since then, but very little has happened. I hope that the committee will take a firm view on the issue, so that we can have effective legislation to alleviate the problem.

Nigel Don: I challenge any local councillor to put their hand up and say that they have not met this problem over recent years. It does not matter where one is—these hedges seem to pop up, and

they grow very quickly. I wonder whether we can check with the Government whether the matter can be dealt with by anything other than primary legislation. If it were made clear to us that, as a matter of law, the minister could do something useful through regulation, that would lay out clearly what we could do. If it is a matter of passing primary legislation, we need to encourage somebody—even if it is a member of the committee—to introduce a bill as soon as possible. There is a general feeling that we need legislation. However, if the responsible minister—whoever that may be—can address the problem through regulation, we must encourage him to do so. He will probably argue that the matter is being reviewed and will be dealt with in due course, but I would like an answer to my question if that is possible, please.

The Convener: Okay. We have a couple of suggestions from committee members. We will keep the petition open and will explore some of the points that have been raised by the petitioner. Is that agreed?

Members indicated agreement.

Information Plaques (PE1012)

The Convener: PE1012, by Frank Beattie, calls on the Parliament to urge the Government to adopt a nationally co-ordinated and nationally funded scheme for marking people, events and places by erecting informative plaques at sites of local, regional, national or international importance. The petition is fairly straightforward, and I think that there will be broad consensus that we should write to the Government to suggest that it pull together individuals with an interest in the issues to see whether the idea is worth exploring. I do not think that there is anything unreasonable in our at least trying to open up that debate. Is that agreed?

Members indicated agreement.

Advice Agencies (Annual Monitoring) (PE1096)

The Convener: PE1096, by William McCormack, on behalf of Dumfries Welfare Rights, calls on the Parliament to urge the Government to take action to ensure that all advice agencies in receipt of lottery or public funding exceeding £25,000 a year are subject to annual compulsory monitoring by specialist independent audit or peer review bodies to assess the standard and quality of the advice that is given.

We have seen the papers—I am open to members' views on what we wish to do with the petition, given the information that we have gathered and the observations that have been

made by agencies that have responsibility for some of the issues.

Robin Harper: I am content that what is in place at the moment is sufficient. To impose those conditions on any agency that receives more than £25,000—which is one person's salary—would mean monitoring every single person in the country who provides advice in one way or another. There is nothing to suggest that what is currently in place is not sufficient and adequate. I am happy for the petition to be closed.

The Convener: Is that the view of committee members?

Members indicated agreement.

Public Sector Contracts (PE1097)

The Convener: PE1097, also by William McCormack, on behalf of Dumfries Welfare Rights, seeks legislation—or enhanced enforcement of existing legislation—to make it an offence for any local authority or public sector body to award a contract with a value exceeding £25,000 without first adopting a competitive tendering and best value-based approach.

We have the papers in front of us. Do members have any strong views? The views that members expressed on the previous petition probably apply to this petition, too. Given the provisions of the Local Government in Scotland Act 2003, existing European Union procurement law and Audit Scotland's role, mechanisms are in place to address some of the petitioner's concerns. On those grounds, do members agree to close the petition?

Members indicated agreement.

School Buses (Seat Belts) (PE1098)

The Convener: PE1098, by Lynn Merrifield, on behalf of Kingseat community council, calls on the Parliament to urge the Scottish Government to make provision for every school bus to be fitted with three-point seat belts for every school child passenger. I am sure that that is part of local authorities' best-value contracts, in relation to the provision of school buses. The petitioners have appeared in front of the committee, and we have subsequently received papers in response to some of our inquiries. Do members wish to take any further action on the petition?

Nanette Milne: This issue has probably affected a number of us—it has been raised with me in my constituency. We know that Moray Council, for instance, provides seat belts in buses. It would be interesting to ask the Scottish Government for its views on the position in Moray and what bearing that would have on other councils. Scotland's Commissioner for Children and Young People has

made the interesting suggestion that there should be a children's rights impact assessment to examine whether not having such safety measures in some way infringes the rights of children.

The Convener: We will explore the petition further in relation to the children's rights impact assessment. Moray Council has provided seat belts in all school buses, and it might be useful to find out what discussions are taking place within COSLA in relation to guidance on the issue.

Planning Applications (PE1101)

The Convener: PE1101, by David Milne, calls on the Parliament to urge the Government to ensure that all relevant planning policies and guidance are adhered to and to consider the circumstances under which Scottish ministers instruct local inquiries when planning applications, such as that for a housing and golf development at Balmedie, are considered.

The issue has prompted much public discussion, and it has been discussed in another parliamentary committee. Do members have any views on the petition?

Nanette Milne: I declare an interest, in that I have publicly expressed support for the petition. Beyond that, I think that the issue has been aired significantly both inside and outside the Parliament, and I question whether the committee can do anything further. I therefore suggest that we close the petition—if it is in order for me to do so, having said that I have an interest in the matter.

The Convener: Okay. We will close the petition on the basis that a more appropriate committee has had a chance to explore the detail of the issues that it raises, although I understand that that committee arrived at a firm set of conclusions that not everybody was happy with.

Rural Post Offices (PE1102)

The Convener: PE1102, by Bill Herd, calls on the Parliament to urge the Government to assess the impact that the United Kingdom Government's recent announcement on the future of the post office network—concerning both sub-post offices and Crown post office relocation—will have on rural communities in Scotland such as Galashiels. Members have the clerk's paper in front of them, and the papers that we have received from the petitioner have also been made available. Do members have any comments to make on the petition?

Robin Harper: Some kind of impact assessment needs to be made, and we must find out whether the Scottish Government is the most

appropriate—or the only appropriate—body to approach to carry out that impact assessment. I am not certain about that; another body might be interested in carrying out an impact assessment. However, there is no doubt that there are many knock-on effects every time that a rural post office is closed. Many members of the community—especially older people, such as pensioners, and others who rely on post offices for a lot of services—might not have regular access to transport. That aspect and the impacts on those people need to be measured properly so that we have the full picture of how serious the situation is.

The Convener: All members—whether they represent rural or urban areas—recognise the fact that a pretty difficult programme has been put forward. That is the best euphemism that I can find for the proposals.

The first issue is the impact on the wider community. The second issue is whether there are alternative models of provision that could be positively engaged with. My criticism of the present process is that, when alternatives have been suggested, the access criteria are defined so strictly that they do not allow flexibility, with the result that others cannot deliver services from sites in the localities concerned. If we have any message to send to the Post Office, it is that it should be engaging in that process. I understand the economic situation in which the Post Office Counters network currently has to operate. We all have different views about that, and we have to deal with the difficulties that the situation throws up for us all. However, I am intrigued to know how we can get greater flexibility in the system.

An impact assessment is a good suggestion, and we should certainly recommend it.

Robin Harper: An environmental impact assessment could be part of that process. One imagines that hundreds of extra car journeys will be necessary—for those who have cars—when a rural or small-town post office is closed.

Nanette Milne: I agree. A decision has been made by the Westminster Government that a certain number of post offices must close, and we must work within that to get the most appropriate outcome for Scotland. Many parts of rural Scotland will suffer significant deprivation as a result of that decision.

John Farquhar Munro: We are fighting the battle with both hands tied behind our back. Control of the post office network is outwith the Scottish Parliament's remit, but we see the havoc and devastation that the UK Government's decision is likely to cause and is already causing. Our electorate would expect their MSPs to continue the dialogue and try to retrieve as much as we possibly can.

16:30

John Wilson: As John Farquhar Munro has pointed out, we have both hands tied behind our back because of the numbers to be closed that have been set by the United Kingdom Government. Essex County Council recently decided to continue to support some post offices, and I believe that one Scottish local authority has taken that decision on board and is considering ways of retaining post office services in particular communities. It might be useful to find out about that. In particular, we should find out what that council is doing to retain post offices, and what services will still be provided. The Scottish example might be a better example than the Essex one to give local authorities in Scotland, COSLA and the Scottish Government. Scottish local authorities should be looking into the issue and taking decisions so that they can continue to support local post offices.

Clearly, we are tied by the UK decision. I represent one of the last areas to be considered when it comes to decisions on closures, and I fear that, if the target numbers for Scotland have not been reached, the remaining closures will be lumped into central Scotland. Rural and small communities have real concerns about whether the proposed closures will happen and how they will happen.

There are hopeful signs that local authorities and others are working on the issue, but it might be worth while asking the Scottish Government what assistance it can offer local authorities that decide to support local post offices.

Claire Baker: I was going to make much the same point. When Mr Swinney made his statement to Parliament, he spoke about innovative solutions to retain postal services, especially in rural areas.

The Convener: Helpful suggestions have been made, and we should take them up with the Scottish Government in relation to the rural development programme and local authorities.

The Post Office has to engage in the process with a much more open mind than it has had to date. Like many members, I have had to deal with the difficult issues relating to closures. In one part of my constituency, I thought that we had an innovative model, but circumstances meant that it was not accepted. However, a wee bit more flexibility will benefit us all. I hope that we can communicate that message.

Violence against Women (PE1103)

The Convener: PE1103, by Susan Moffat, calls on the Parliament to urge the Government to prioritise the development of strategic work on violence against women by following the three Ps

approach: active prevention of violence against women and children; adequate provision of quality support services for women and children; and appropriate and effective legal protection for women and children.

The petition raises several big issues. Over the past eight years, we have made progress in Scotland on the legislative framework for tackling domestic violence. Such violence has affected men, but there are compelling statistics that it has a disproportionate effect on women and children. We have been creating a framework in which there can be co-ordinated services and support for people in difficulty. New communities are emerging in Scotland and it is important that the framework is sensitive to cultural issues in different communities.

What are members' views on the petition?

Claire Baker: We should ask the Government for more detail on a number of issues raised by the petition. Scottish Women's Aid still has concerns about the spending review and the concordat, and about the impact that they will have on services. We should ask the Government for details on the action that it is taking.

The Convener: We might also want to ask about the development of strategies and about the domestic abuse court, which has been debated in the chamber.

Part of the discussion on the concordat and where people stand on the issue is about the services that are in place at the local level. The concern about agencies that depend on funding from local councils is that if such funding is not part of councils' central commitments, voluntary sector grants might be reduced. That might have an impact on bodies such as Scottish Women's Aid. Let us explore those issues and wait for a response from the Government and COSLA.

John Wilson: I suggest that we ask the Government how it will measure the results of its recently launched information campaign to tackle violence against women and children and whether it has been a success. It would be useful to find out how the Government plans to carry forward any assessment and whether it can furnish us with the results.

Claire Baker: It would be important for the Government to give us details of what it is doing to educate children and young people about the issue. There was a recent members' debate about that, which is a key issue.

The Convener: That is helpful. We will deal with those suggestions.

Wind Farm Developments (PE1104)

The Convener: The final petition is PE1104, by Dixie Dean. At first, I thought that the petition was going to be about a commemorative plaque for the hat trick in the 1972 final—sometimes we wish for too much. In fact, the petition asks the Scottish Parliament to urge the Government to consider the impact of mechanical vibrations that are transmitted down through wind turbine installations to peat, soils, invertebrates, fungi and bioaerosols, which lie at the base of the food chain, when it considers applications for onshore wind farms, and to commission research into the impact of such vibrations on such habitats and species.

Do members have any suggestions on how we should deal with the petition?

Nigel Don: Having read the papers, I found it quite interesting that, as one would perhaps have predicted, there are very different technical views on the possibilities and on the value—otherwise—of the evidence. I hope that members will forgive me for not knowing what we can do with the petition. Does the Scottish Government have a chief scientist?

John Wilson: Yes.

Nigel Don: In that case, should we write to the chief scientist—or the chief engineer or whoever—to ask him or her whether he or she has an opinion on the evidence that is in front of us, and whether the area is important? I do not think that we are qualified to judge the evidence, and I would not want to put anyone else under pressure.

John Farquhar Munro: Surely any problems would be highlighted by the environmental impact assessment that is required before planning consent is given.

Nigel Don: Given my previous experience, I observe that you do not find problems that you do not look for and that you do not get answers to questions that you do not ask. If you are not looking for a problem in the soil, you will not find one. I am not convinced that there is a problem, but it is not for me to judge.

John Wilson: It is incumbent on the committee to ask the Government what considerations it will take on board in future plans for onshore wind farms to ensure that there is a full environmental impact assessment. Such an assessment should take into account the impact of vibration. Some of the submissions that we have received are quite interesting. We tend to forget the things that grow and live beneath the soil when we carry out environmental impact assessments. It would be useful if the committee could advise the Government that it should take on board the effect of vibration when it carries out such assessments. I know from my experience of industrial life that a

number of things that have happened in industry were never assessed properly, with the result that, years later, we have to live with impacts on human life and other life. With the knowledge that we have, we should measure everything within our capability to ensure the future existence of subsoil life.

The Convener: Are we happy to progress the petition on the basis of those comments and observations by members?

Members indicated agreement.

New Petitions (Notification)

16:39

The Convener: Item 3 is the notification of petitions that have been lodged since our previous meeting. As members have no comments, do we agree simply to note the new petitions?

Members indicated agreement.

Meeting closed at 16:40.

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