

PUBLIC PETITIONS COMMITTEE

Tuesday 10 February 2009

Session 3

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PUBLIC PETITIONS COMMITTEE

3rd Meeting 2009, Session 3

CONVENER

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Marlyn Glen (North East Scotland) (Lab)

*Robin Harper (Lothians) (Green)

*Nanette Milne (North East Scotland) (Con)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Christina McKelvie (Central Scotland) (SNP)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Richard Baker (North East Scotland) (Lab)

Angela Constance (Livingston) (SNP)

Kenny MacAskill (Cabinet Secretary for Justice)

Lewis Macdonald (Aberdeen Central) (Lab)

Michael McMahon (Hamilton North and Bellshill) (Lab)

Shirley-Anne Somerville (Lothians) (SNP)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERK

Franck David

Jonathan Orr

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 10 February 2009

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

The Convener (Mr Frank McAveety): Good afternoon. I welcome everyone to this meeting of the Scottish Parliament Public Petitions Committee.

Before we go into the formalities of today's meeting, people will be aware that in the past few days we lost one of our members of the Scottish Parliament, and a very valued member of our Public Petitions Committee—Bashir Ahmad. People will have heard the tributes to Bashir that have been paid over the past few days. We know that the Presiding Officer and the First Minister will wish to comment in Parliament tomorrow on his sad passing away.

Bashir was a very good member of the committee who made substantial contributions to its work. It is appropriate that we spend a few moments in quiet reflection. I ask members to remain seated, but to pause in reflection on the contribution that Bashir Ahmad made to public life, particularly as the first Muslim to be elected to the Scottish Parliament, which marks a great achievement for the community from which he came.

Current Petitions

14:02

The Convener: I thank members for the courtesy and respect that they have just shown.

We have received no apologies. I remind all committee members and members of the public that all mobile phones and other electronic devices should be switched off, so that they do not interfere with the communications system.

Item 1 is consideration of current petitions. In front of us are the petitions and supporting information, as specified in paper PE/S3/09/3/1. We have an incredible number of petitions to deal with this afternoon, so we will endeavour to get through them as efficiently and effectively as possible.

Community Prisons (PE1150)

The Convener: The first petition is PE1150, by David Wemyss, on behalf of the Aberdeen prison visiting committee, which calls on Parliament to urge the Government to consider whether large prisons that are remote from prisoners' families offer the best way of rehabilitating offenders, or whether, as an alternative, community prisons should be supported much more strongly in order to maintain genuinely easy access to family links and to other community virtues.

Subsequent to our discussion of the petition, it is useful to have present this afternoon the minister with responsibility for prisons, Kenny MacAskill, along with Tom Fox from the Scottish Prison Service. I welcome you both to this afternoon's meeting. We wish to follow up on a number of issues arising from the petition. If the minister wishes to make any opening statement he may do so—although I see that he is happy simply to respond to questions.

Several constituency and regional members have expressed an interest in the matter, and some might well be present at some point in the meeting.

Nanette Milne (North East Scotland) (Con): I am glad to see you before the committee this afternoon, cabinet secretary.

The focus of the petitioner, and of North East Scotland members such as me, has been on whether Peterhead is the right place for the Grampian community prison. I am aware that the committee cannot focus on that, however, and that it must focus on the Government's national policy intentions, so I will not deal with specifics at this stage.

We have heard from Families Outside and other bodies that the best way for prisoners to be rehabilitated into the community is for them to maintain regular contact with their families. That is backed up by research.

Can large prisons that are quite remote from prisoners' homes, and which might be difficult for their families to access, offer the best means of rehabilitation? Would not support for community prisons close to where prisoners live—which would allow their families easy access and make maintaining regular contact easier—be more likely to lead to successful rehabilitation?

The Cabinet Secretary for Justice (Kenny MacAskill): As a Government, we accept that key factors in boosting rehabilitation are prisoners' ability to maintain family contact, to have homes to go back to and jobs to pick up. At present, 56 per cent of prisoners from an Aberdeen area postcode are not in prison in Aberdeen.

To some extent, it is a question of balance. We cannot have a prison in every community, nor would we want that, because that would be indicative of problems in our communities. Many places in Scotland do not have their own prison, including the city of Dundee, East Kilbride and Paisley, despite their significant size. Ideally, prisons would be available in such places, but there has to be a balance. There is also the issue of resources to consider.

There are particular pressures on resources in Aberdeen. Understandably, people want the Aberdeen western peripheral bypass. A prison is not cheap. Prisons are not cheap to run—it costs £40,000 per prisoner per annum and it costs at least £140 million to build one. If we were to build a prison in Aberdeen, we would either have to not build one elsewhere, or to take resources from the budget that—thankfully—we signed off last week.

We accept that there are difficulties, but we believe that HM Prison Grampian in Peterhead offers great opportunities. We are rebuilding on-site at Peterhead. That could not be done at Aberdeen. There are difficulties to do with land acquisition for a prison in Aberdeen and the clamour for a prison is greater in Peterhead. People there welcome the fact that a new prison is being built. That is not always the case—some people do not welcome the name of their town being given to a prison.

Are there difficulties with distance? Yes, but the distance between Aberdeen and Peterhead is 30 miles, whereas Aberdeen to Glenochil is a 220-mile round trip, so the new prison will allow people in Aberdeen to make a significant saving. At present, they have to go to Glenochil or Polmont to visit young offenders and to Cornton Vale to visit women. The prison for the Grampian area in

Peterhead will be community facing—it will take youngsters and women prisoners, as well as local prisoners.

Nanette Milne: That has opened up issues with regard to the current prison in Aberdeen, which had women prisoners until fairly recently, when the accommodation was reckoned not to be fit for purpose. Some people in the city are of the viewpoint that that could be put right.

You mentioned Glenochil, but it is not easy to get from Aberdeen to Peterhead. The bus service is not good, there is no train service and many of the people concerned will not have their own transport. What would be a reasonable travelling time for those people, given that around 80 per cent of the prisoners at HM Prison Aberdeen are from Aberdeen itself?

Kenny MacAskill: We make no apologies for the fact that there are no women prisoners in Aberdeen prison. The decision to stop sending women prisoners to Aberdeen, taken by our predecessor Government, which was of a different political inclination, was quite correct. During my 20 years as a defence agent, I visited women prisoners in the prison in Aberdeen. The environment there was intimidating and threatening, and the circumstances in which women were held were, frankly, unacceptable. Previous ministers took the correct decision, which we have adhered to.

There is a distance between Aberdeen and Peterhead, but we must put the situation in perspective. The First Minister and Stewart Stevenson would dispute the assertion that Peterhead is the ends of the earth, even if it is at the end of a juncture. For legitimate reasons, the places where many prisons are located are not the easiest places to get to. Saughton and Barlinnie are in the middle of communities for historical reasons, but Kilmarnock prison is at the end of a long road and is outwith the town of Kilmarnock. Addiewell might be adjacent to Loganlea and places near where I grew up, but it is not that easy to get to.

The Government and the Scottish Prison Service accept that we must do what we can to ensure that relationships can be continued and that families—husbands, wives, grannies or aunties—can visit. The maintenance of such relationships is beneficial to rehabilitation.

Our point is that Peterhead is not the ends of the earth. There is a limit to where we can go. In fact, there is considerably more merit and savings for individuals, both those being transported and those having to travel, in going to Peterhead from the Aberdeen area than there is in their having to go to Glenochil and Cornton Vale. It comes back to my earlier point—56 per cent of prisoners from

Aberdeen are currently outwith the city of Aberdeen. We hope that the opening of HM Prison Grampian will allow the numbers to increase.

Not everyone from an Aberdeen postcode wants to go to prison there, for good reason. Members might have come across that in their constituencies. I have had people come to me on behalf of a son or daughter who is in prison in England and who wants to come back, for example. I have also heard from prisoners who want to move because their girlfriend or whoever has relocated.

It is about trying to strike a balance. On the one hand, resources are limited. However, we accept the point that the committee and the petitioner correctly made, which is that maintaining access for families is one of the most pivotal issues, along with a home to go back to and, at some stage, employment to get into.

Nanette Milne: Obviously, there are different opinions. I will leave it at that.

Marlyn Glen (North East Scotland) (Lab): I have a more general question about the long-term future plans for prisons. When you talk about a new prison you are talking about something that will last a long time. Would the long-term strategy not be to have localised community prisons?

Kenny MacAskill: We have inherited a crumbling prison estate. People say that some of it is Victorian, but some of it—for example HM Prison Perth—is Napoleonic. I have been told by the governor at Perth prison that it was in those times that its construction was commenced. We have to address that. We are investing £120 million per annum over the next few years to ensure that we can sign off HM Prison Addiewell, which we inherited, and construct HM Prison Grampian and the prison at Bishopbriggs, which will be adjacent to the old prison at Low Moss. Planning has commenced, but it will be for another Government to sign off replacements for Inverness and Greenock. Those are our plans. As the committee probably knows, Inverness prison is dilapidated, Greenock prison is running into difficulties and there are ongoing works at Shotts and elsewhere. The Government refuses to take the south-of-the-border perspective of titan prisons and so on.

It comes back to “You pays your money and you takes your choice.” There are people, such as my good friend Bill Aitken, who is not here today, who say, “Let’s just build more prisons. Build two additional prisons. Build six additional prisons.” We can build as many prisons as we like but we have to pay for them. We will build Grampian and the prison at Bishopbriggs. We will consider replacing Greenock and Inverness, and we will upgrade Ratho Hall and Saughton and consider a

replacement at Shotts. However, there comes a time when spending on prisons means that we cannot spend on pensioners. If we build for inmates, we cannot provide schools, homes and hospitals. It is a matter of choice.

Marlyn Glen: What I was really asking was whether there is a long-term vision. What you have described is all reactive stuff, for the future although I absolutely understand that you have got to deal with what exists now. The Equal Opportunities Committee is doing an inquiry into female offenders.

Kenny MacAskill: It is a matter of balance. Yes, we want community-facing prisons, which is what HM Prison Grampian will provide for remand prisoners, for youngsters who would have gone to Polmont, and for women prisoners who would have been sent to Cornton Vale. However, some of the numbers affect what the prison can deal with and some prisoners cannot, for security reasons, be dealt with in more local prisons. We support the concept of community-facing prisons so that prisoners’ families do not have to travel great distances. It also benefits the Scottish Prison Service if transport requirements are reduced.

That has to be balanced against the facts that some prisoners have to be in particular prisons for their own safety, and that others have to be moved elsewhere for gang-related or other reasons. Furthermore, some things cannot be achieved with a restricted number of prisoners. For example, the specialist care that is needed might be located elsewhere.

14:15

Marlyn Glen: That leads on to another area altogether. The cost of prisons is an interesting subject. The Government should be comparing the cost of rehabilitation and the overall cost to the community of offenders who are not rehabilitated. I am, therefore, interested in the arguments about costs.

The principle of having community prisons is important, too. You have talked about specialised prisons. We are considering Cornton Vale, where specialist services are available, but you are suggesting something entirely different from that. Are you going to have the facilities that are needed in specialised prisons?

Kenny MacAskill: It comes back to the question of balance. It is the same in every walk of life. Some things cannot be provided everywhere, but can be provided only where there is a critical mass. It is our intention that there should be community-facing prisons and the opportunity to deal with matters in those prisons. Nevertheless, it is for the SPS to make operational decisions on whether various kinds of education or whatever

are provided in prisons. We cannot say that every prison will have X, Y or Z, because that might not be feasible.

Community-facing prisons are important if we are, for security reasons, to minimise the amount of necessary travel and minimise the inconvenience for families in order that we can maintain prisoners' links to them.

Equally, there are prisons where security must be the priority. Shotts prison, for example, has always been in that category because of the type of prisoners who go there. Also, a limited number of prisoners can create difficulties in respect of providing services for prisoners there, because there is no critical mass to justify those resources. That has been discovered in other prisons.

Marlyn Glen: I would suggest that we want fewer prisoners, not more, and that they should have the appropriate facilities available to them. I will not go on about the costs, but I think that you should look at the costs on a very wide basis, including the costs of reoffending.

Kenny MacAskill: You can take it as read that that is the direction of travel that the Government has chosen. We need prisons in this country because we have people who commit serious offences, who must go to prison because they are a danger to our communities and need to be detained. Equally, however, it is clear that a person is less likely to reoffend if they are given a community sentence rather than a short prison sentence.

We need a coherent prisons policy whereby prisons are used for serious and dangerous offenders while those who have committed less serious offences pay their communities back through the sweat of their brow for the harm that they have done. That is cheaper for us and is more likely to rehabilitate offenders. It also means that offenders repay their communities for the damage that they have done instead of sitting on their beds and twiddling their thumbs at the taxpayers' expense.

Robin Harper (Lothians) (Green): I declare an interest as a long-time member of the Howard League for Penal Reform.

I welcome the minister's last few remarks. He will accept that we jail more offenders per head of population than almost any other country in Europe and that we have a huge problem with reoffending. Marlyn Glen asked this question. Is the Government currently discussing a long-term vision for community prisons—for moving away from the present structure of large prisons? The minister is clearly critical of the idea of titan prisons. I would welcome any hint from him that an alternative policy is being actively pursued.

Kenny MacAskill: The Government's aim is to have a coherent prisons policy and a coherent penal policy. There is something manifestly wrong if, while we have the lowest level of recorded crimes in 28 years, we have the highest recorded level of imprisonment. As the McLeish commission has confirmed, we in Scotland are not bad people per se and there is no good reason why we should be locking up far more people than our Celtic cousins in the Republic of Ireland or comparable nations elsewhere in Europe.

Something is out of kilter. That is not to say that we do not have to have prisons or that people do not have to be in prison. If someone goes around stabbing people we expect them to go to jail. A person who commits a serious offence must be punished and we have to protect people.

We have a significant problem with the prison estate because of years of underinvestment. My good friend Bill Aitken is not here, and we should remember that the Tories in power did not build one new prison. Others have had to pick up the slack, which is why we signed off Addiewell prison and Bishopbriggs prison, and why Grampian prison will be built. Replacement prisons are needed. Anyone who visits Greenock prison or Inverness prison sees the problems that we face.

We want to discuss community-facing prisons and other matters with community justice authorities. The issue is not just where prisons are located; it is how we deal with prisoners and offenders in communities. CJAs are a recent development and we are working with them and fully support them. My view is that the approach will develop, although many of the issues will not be dealt with in the short term, because in the short term we must provide an estate that is fit for purpose and we must deal with the problem of having far too many people in jail who do not need to be there.

The Government thinks that community-facing prisons are the right direction of travel. Other approaches will no doubt be required, because people who commit serious offences and receive significant sentences will be with us for some time to come.

Robin Harper: Prison must serve three purposes: punishment, removing people from the community while they are dangerous, and rehabilitation. Do you agree that the punishment should be for the prisoner and not his family, in particular his children? I should have said "his or her children"; a smaller number of children have mothers who are in prison. A child should not be punished because their parent is in prison. Proper and easy access to parents is an important part of the equation, to which the Government should give due consideration.

Kenny MacAskill: We absolutely accept that maintaining family contact is important. We draw the line at the suggestion that people who have children should not go to prison. Sentencing is and always will be a matter for the judiciary. Any sheriff or judge must consider the effect of the sentence on the family. However, we should remember that victims have children too. Their rights must also be considered.

Social inquiry reports provide sentencers with important background information about the family situation. We must ensure that prison facilities are such that fathers and mothers can continue to interact with their children, because the bond between parent and child is important. It is also important to try to provide for family stability when the prisoner is released. We fully support the general direction of travel that you are talking about.

Nigel Don (North East Scotland) (SNP): Perhaps I should declare an interest. I live within walking distance of Aberdeen prison and have been in the prison, but only in a professional capacity. I have also accompanied the police on Union Street on a Saturday night, as I am sure other members have. The shortage of custody cells is of particular relevance in Aberdeen—I am sure that it is an issue in other places. There is therefore an issue about remand cells, given that the courts are bang in the middle of Aberdeen, about 30 miles from Peterhead.

What is the possibility of the cabinet secretary's working with the police and the SPS in Aberdeen and elsewhere to ensure that there is an excess—if I dare use the word—of cells close to city centres and courts? That would provide flexibility and might mean that in time prisoners could be released from somewhere nearer their homes.

Kenny MacAskill: We are always happy to meet chief constables and police boards. I will meet the chief constable of Grampian Police on Friday morning.

Detention cells, unlike remand prisoners, are not in the SPS's domain, but are the responsibility of the police. I expect the SPS would be happy to discuss the configuration of services in Aberdeen and how the chief constable and police board want to spend their money.

The SPS is responsible for prisoners who have been convicted and sentenced or who have been remanded awaiting sentence. It is not responsible for people who are detained pending appearance in court—that is the responsibility of the police. In Aberdeen, as in every other community, what you describe as remand—detention on a Friday or Saturday night—is a police responsibility. However, if there is a desire for such a facility, the

Government is more than happy to discuss the suggestion and to work with people on it.

Nigel Don: That is encouraging. I encourage the cabinet secretary, the police and the SPS to consider to what extent they can work together, especially in city centres. In Aberdeen and, no doubt, other places such as Dundee, there is scope for having an appropriate number of cells for times of peak custody, which are, sadly, usually at weekends, for reasons that we know. Some prisoners who are about to finish their sentences could be housed in those cells for a period, perhaps of weeks. That would keep them closer to home and might assist the process of rehabilitation.

Kenny MacAskill: That suggestion could pose practical difficulties for the SPS. The process of arranging release from prison includes various checks and balances. It is not simply a matter of holding or detaining someone—different organisations are involved. Police detention cells are meant to be used for a limited period. Custody courts run even on bank holidays, when the main courts are closed, because there are precise time limits for holding people.

I have visited police cells in Scotland in a professional capacity. They are not meant to be places where people are kept for a week or a fortnight, but places where people can be detained safely and securely until the earliest available court day. If someone is detained late on a Friday, they will appear in court on the following Monday morning. If there is a Monday holiday, they may appear on Saturday. Extension of the use of police cells to other people would involve a significant change in structures. We do not rule it out, but we are investing £120 million through the SPS. It is for police boards to consider whether money would be better invested in police officers or in some form of cell accommodation.

Nigel Don: You have confirmed that the issue is not as simple as I suggested. The different types of cell accommodation cater for two quite different activities and are not interchangeable.

Kenny MacAskill: As any prison governor would tell you, for people on the point of release, there are discussions about housing, families, maintaining treatments for addiction and other issues that members have correctly raised. That provision requires resourcing that would not be available in a detention cell. We are trying to ensure that, when we open the door, prisoners have the opportunity to go home, to be met by their families, to try to obtain employment and to maintain their alcohol or drug addiction treatment policies. We do not want them to be bent by the nearest pimp or drug dealer or to go straight to the nearest off-licence.

The Convener: A couple of members with constituency or regional interests in the petition have questions.

Lewis Macdonald (Aberdeen Central) (Lab): Further to Nigel Don's questions, you will recall that on 1 November 2007 I asked you in Parliament whether you would consider the case that the Aberdeen prison visitors committee has made for a modern, purpose-built remand centre in Aberdeen. Can I take it from your answer to Mr Don's questions that you still intend not to go down that road?

Kenny MacAskill: No. We are open to any suggestions. The proposal would have to be put before us, as it does not relate to an SPS responsibility and raises practical issues—the police board would have to consider how it could be financed. However, I do not rule out such suggestions.

Lewis Macdonald: You may have misunderstood my question, which relates to a specific SPS responsibility—the 100 prisoners held at Craiginches who are on remand. Would you consider creating a unit in Aberdeen to house those prisoners prior to their attendance at court?

Kenny MacAskill: The issue is where we would get the funding from for that. If you are suggesting that funds could be freed up from other areas, I am more than happy to look at that. At present, with the budget that we face, there ain't no money there. If such a unit is wanted in Aberdeen, would I rule it out? We recognise that we are a minority Government and these things could be forced on us. I return to the point that I made to Nanette Milne at the outset: if that is what you want, what do you want to cut?

14:30

Lewis Macdonald: So, in essence, your view is that either Peterhead prison goes ahead as a rebuild as you have planned or you create a facility in Aberdeen. You are not prepared to consider both within your current budget.

Kenny MacAskill: It is not simply Peterhead. Low Moss/Bishopbriggs, Inverclyde and Inverness are coming on the horizon—never mind Ratho hall and upgrades at Shotts and other prisons, such as Perth, which has other issues. There is on-going investment of £120 million and there just ain't no cash.

Lewis Macdonald: You are of course aware that the submission to the committee's inquiry from Families Outside, which seeks to represent the views and interests of families of people in prison, said that classifying HMP Grampian as a community-facing prison for Aberdeen is ludicrous. Do you understand why it has taken that view?

Kenny MacAskill: I met Dr Loucks at the Skills for Justice centre. I disagree entirely with that view. It comes back to the point that 56 per cent of Aberdeen postcode prisoners are currently not in Craiginches. The idea that, somehow or another, we are transporting them from Aberdeen to the boonies up in Peterhead is not true. In fact, more people with an Aberdeen postcode are likely to be able to be located in HMP Grampian than are currently located in the antediluvian premises that we have at Craiginches. The point that you raise is factually wrong.

Lewis Macdonald: Do you accept that 85 per cent of those who are imprisoned at Craiginches are from the city of Aberdeen and only 10 per cent are from the other AB postcodes to which you referred? In other words, some of the explanation for your numbers lies with the prisoners from Morayshire and Banffshire who are in prison at Inverness rather than Aberdeen. The vast majority of the 200 or more adult male prisoners at Aberdeen are from the city of Aberdeen. You are proposing to remove their local prison and to house them some 37 miles away at Peterhead.

Kenny MacAskill: We have a substantial number of prisoners in Aberdeen, and in Cornton Vale, who come not from Aberdeen or Aberdeenshire but from Birmingham and other places, because of the problem that we have with crack and other narcotic substances. It depends which way you look at the statistics. Our position is that 56 per cent of prisoners from Aberdeen are not currently housed at Aberdeen. Are they going to have to move from Aberdeen to Peterhead? The answer is yes, some will have to. However, that appears to us to be offset by the gain that young men in the main will not have to go to HMP Polmont and many women will not have to go to Cornton Vale. Prisoners who are currently not in Aberdeen but in Greenock, Saughton, Barlinnie or wherever else will go to Peterhead. Does that mean that Aberdeen will not have a prison? Yes, but not every major city or town has a prison. I am thinking of Dundee, East Kilbride, Hamilton, Motherwell and Paisley—I could go on.

Lewis Macdonald: But of course Aberdeen does. That is the point, is it not? When you described your vision for community-facing prisons, you said that it was important to minimise travel and improve security. You will be aware of Grampian Police's concern about the increased risk of escapes from relocating Aberdeen prison 40 miles up the road. Given that 85 per cent of the prisoners currently held at Craiginches are from the city of Aberdeen, I draw to your attention the fact that a journey from Aberdeen to Peterhead prison is an hour by bus, which runs three times a day. It would cost the partner of somebody who is held at that prison £14 to make that journey. By contrast, the bus to Craiginches, which goes every

10 minutes, would cost that person £1.50. Do you recognise that, far from minimising travel or reducing the distance between prisoners and their families, you are vastly increasing the cost and difficulty of making the journey for the families of the 200 adult male prisoners at Craiginches? That will have significant implications for the rehabilitation of prisoners as well as cost implications for their families.

Kenny MacAskill: There are three issues there. My primary responsibility is to the Government and the people of Scotland, not simply to individuals who happen to be in Aberdeen prison. Are you correct that some might have a worse situation in terms of their personal relationships? The answer is yes. Equally, I have to take cognisance of the fact that we have 5 million people in Scotland. Taxpayers expect to get best value and expect us to use Government resources as best we can. We cannot build a prison in every community. As I said, we have decided to spend £120 million per annum in forthcoming years; if we were not in this situation, we would probably prefer to spend it on schools, homes and hospitals, but we are where we are.

On escapes, I do not accept that there is any risk to public safety. We are well served by our police and our prison service. The idea of there being some kind of bandit country between Aberdeen and Peterhead is, frankly, absurd and I do not accept it.

When building prisons, we took cognisance of the fact that we could build on the Peterhead site because of its size, but we could not build at Craiginches because we could not develop on that site. A prison in Aberdeen would have to be built elsewhere. I do not know whether communities in Aberdeen volunteered where prisons should be sited. I would have been happy to listen, but I do not remember a community coming forward and saying, "Build this prison and build it here; we are for it." Peterhead was happy to have a prison, whereas many communities are not. As I mentioned earlier, some communities do not even want their name attached to a prison.

To return to my earlier point about costs, some individuals might have longer to travel to see their son in Peterhead than they would have if he were in Aberdeen, but such matters have to be looked at in the context of the Scotland-wide position, which is best served by building HMP Grampian. Where the prison for the north-east of Scotland would be sited was under discussion for many years before I had the privilege of becoming the Cabinet Secretary for Justice. We thought it important not only for prisoners but for prison officers and their families that a decision should be made. We made that decision and are now pressing on to make sure that HMP Grampian can

protect our communities and detain those whom we have to.

Lewis Macdonald: I note that you suggest—

The Convener: I am conscious that Richard Baker wants to ask a question, so please make this your final question.

Lewis Macdonald: That is fine. Cabinet secretary, I note your use of the word "absurd". I am sure that you are aware that it was Superintendent Innes Skene of Grampian Police who referred in his submission to the

"potential increased instances of escapes, accidents and breakdowns which may arise due to the inherent risks associated with increased travel distances".

You might not share that view, but it is important to put it on the record that that is the police's view, not mine.

Given your decision to create a community-facing prison in Grampian, which we support, your argument that many prisoners from Aberdeen are held elsewhere, which is recognised, and the fact that the vast majority of those held currently at Craiginches and of those elsewhere in the prison system from AB postcode areas come from the city of Aberdeen, will you tell us in one or two short sentences why you decided to close Aberdeen prison and open HMP Grampian in Peterhead rather than in Aberdeen?

Kenny MacAskill: I do not accept any suggestion that public safety is jeopardised. If I choose to drive rather than walk to work, there is a greater likelihood that I will break down or have a car smash. If you choose to put somebody in a vehicle to travel from Aberdeen to Peterhead, there is more likelihood statistically that the vehicle will break down. That said, we are very well served by Reliance and the number of escapes is infinitesimal, so I do not believe that public safety will be jeopardised. Any visit to Reliance will let you see that prisoners move around Scotland on a daily basis.

Understandably, I have been lobbied by groups such as those mentioned today about the great difficulties for female prisoners who are moved around the country in Reliance vans because they have to go to Cornton Vale. It will be much better for female prisoners in Aberdeen to be sent the short distance to Peterhead than to be sent the long distance to Cornton Vale in what are often uncomfortable and inconvenient circumstances.

The latest information is that there are 435 people in prison with Grampian postcodes, 159 of whom are in Aberdeen. In response to the question why we signed off our decision, time was of the essence when we came into government. We had to make a decision because of the pressures that the Prison Service and prison

estate were under. It was clear to us that Peterhead was easily accessible, that the site was available, and that it had staff expertise and a whole variety of other factors. No site in Aberdeen was volunteered and in those circumstances the best, most expeditious and cost-efficient place to build was at Peterhead.

The Convener: We have spent a long time on the petition, so I want to draw the discussion to a conclusion.

Richard Baker (North East Scotland) (Lab): I will ask just a couple of questions. It is clear that the plans for HMP Grampian are important and that we all agree that proximity to the community is beneficial. HMP Peterhead has a specialised remit for and expertise in the management of sex offenders. To what extent is HMP Grampian planned to have such a role, which would also have an impact on capacity?

Kenny MacAskill: Peterhead is not the only prison with expertise in dealing with sexual offences. We hope to roll out expertise in dealing with sex offenders, whom we must tackle—many of them are the most dangerous people in prisons.

As I say, we wish to have a community-facing prison. We want to ensure that the Prison Service has specialised knowledge, not simply for those who are in the Grampian area, but for those elsewhere. As I say, Peterhead cannot go on as it is—to be frank, it is unsustainable.

Richard Baker: If the expert management of sex offenders is to be dissipated throughout the prison estate, that has a severe impact on the case for retaining a prison in Peterhead rather than creating a new community prison in or near Aberdeen. You talk about a community-facing prison, but the proposed prison will face the community that it serves from 40 miles away. I am sure that no one here would call the intervening 40 miles bandit country or wish it to be so described, but the fact is that the relatives of prisoners will depend on a journey that is difficult on public transport.

I presume that you have not yet put the contract for HMP Grampian out to tender. Why did you make your decision without even looking for a site in or near Aberdeen? Surely there is still time to consult services and people who have made representations on the issue on whether that is still a possibility.

Kenny MacAskill: I assume from what you say that you are asking whether I will cancel the new Peterhead prison and build in Aberdeen. The short answer is no, I am not prepared to do that. We must press on. It is strange that you so criticise alleged delays—which do not exist—in building HMP Bishopbriggs while you are so desirous of delaying HMP Grampian. You cannot have it both

ways. You cannot criticise the Government for not moving fast enough to build Bishopbriggs and for moving far too fast in locating HMP Grampian in Peterhead when you want it to be located in Aberdeen.

I accept that some people wish that the new prison was going to be in Aberdeen. However, the Government had to act expeditiously. We did not have the funds, and we do not desire, to build prisons all over the country, so we decided to build in Peterhead, because that can be done on site and we have the staff there. HMP Peterhead has 300 prisoners; the new HMP Grampian will accommodate 700. The expertise in dealing with sex offenders will be not dissipated but shared throughout the prison estate. We use that expertise not only in Peterhead, as I said.

Richard Baker: Is the new prison's capacity 700 or 500?

Kenny MacAskill: It is 500. I am sorry; 700 was a mistake.

Richard Baker: That makes quite a big difference.

Nanette Milne: I have a final question on staffing. You say that you have the staff at Peterhead, but I understand that the Scottish Prison Service has significant vacancies. Are you confident that it will have enough staff in Peterhead? I am aware that a number of people who serve in Aberdeen will not go to Peterhead if they are asked to.

Kenny MacAskill: We have significant problems in the north-east of Scotland in recruiting for the SPS. That has been because of the buoyancy of the oil and gas sector, which has meant that people chose to take higher salaries offshore than are offered in the Prison Service, although it provides a safe, secure and excellent working environment. However, the situation is changing. Some of the economic dislocation that we have faced has resulted in more recruitment into the Prison Service, which has worked to address the issue. Are we ever-vigilant about the matter? Yes. Have there been difficulties? Yes—we accept that, but those difficulties relate to the economy in the Grampian area. As I say, the issue is being tackled.

The Convener: I will ask the final question.

The petition is about the implications of a shift in location and is prompted by concerns about access and being community facing. If an opportunity arose for the prison estate because of developments in the capital funding programme and other aspects of capital expenditure that emanate from the budget, which the Cabinet Secretary for Finance and Sustainable Growth outlined last week, and given that you have an

opportunity to influence spending rounds in the future, would you consider addressing in future bids to the Cabinet some of the issues that the petitioners have raised and which fall within your ministerial responsibility?

14:45

Kenny MacAskill: Absolutely. We do not rule that out. As we plan for Inverclyde and Inverness, we will have to discuss with the local communities where the prisons are sited.

If you are talking about remand and detention, I am more than happy to discuss that as a philosophical matter, but the budget for that would not necessarily come from the Scottish Government. It would have to come from police boards because they are responsible for the detention cells for those who are due to appear in the court at the first available court sitting. That is not for the SPS, which is there to deal with remand and convicted prisoners.

We are happy to discuss the general philosophical issue, because some of the issues come from many years back. There are good reasons for them, and I am sure that you will probably discuss them with the chief constable of Strathclyde, who recognises that some of the facilities in Glasgow are not how he would like them to be configured. We will be more than happy to discuss those matters with appropriate stakeholders.

The Convener: I am aware that I said that that was the final question, but Nigel Don has a question.

Nigel Don: I would like to put on the record the fact that my diary map confirms that Peterhead really is only about 30 miles from Aberdeen.

Richard Baker: It is more like 40.

Lewis Macdonald: That is factually incorrect.

The Convener: We will not have a pedometer with us this afternoon to confirm it one way or the other.

I am conscious that we have spent three quarters of an hour on the petition. I thank the cabinet secretary for coming this afternoon. It has been helpful to the discussion. We will take on board the discussion we have had, and take another opportunity to consider the information that we have received.

Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations (PE909)

Disabled Parking Bays (Improper Use) (PE1007)

Disabled Parking (PE1149)

The Convener: We have grouped the next three petitions together because they broadly cover similar subject matter.

PE909, from James MacLeod, on behalf of Inverclyde Council on Disability Ltd, calls on the Parliament to urge the Government to review the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations to allow for speedier provision and enforcement of dropped kerbs and disabled parking bays to prevent their abuse, ensuring greater and easier access for disabled, elderly and other users.

PE1007, from Catherine Walker, on behalf of Greater Knightswood Elderly Forum, calls on the Parliament to urge the Government to prevent the improper use of disabled parking bays.

PE1149, from Kenny Shand, on behalf of Disability Help Scotland, calls on the Parliament to urge the Government to introduce legislation to allow for parking bays for disabled drivers with mobility impairments, with particular stress on opportunities for individuals to have parking spaces in the streets outside their houses.

Bill Butler (Glasgow Anniesland) (Lab): I commend all the petitioners who have brought up these related matters. I especially commend Kate Walker and the Greater Knightswood Elderly Forum for PE1007, which has brought up the serious concerns of those who attend the forum, which are echoed throughout Scotland by elderly folk and folk with disabilities.

Colleagues will know that Jackie Baillie introduced a member's bill—it is going into stage 3 and will, I hope, be enacted after that—that will ensure that the improper use of disabled parking bays is curtailed, or stopped. That is a very good thing. Given that the legislation is on its way, I wonder how colleagues feel about suspending PE1007, at least, and inviting the Scottish Government—in due course, once Ms Baillie's bill has got past stage 3 and is, I hope, enacted—to give a final response on the actions that will emerge from the bill, which will, I hope, meet the serious concerns that were raised by the original petitioners.

With that course of action, we would not close the petition, but we would suspend it, and we would see how the bill shapes up, particularly after any stage 3 amendments. We could then ask the

Government how the bill will positively address the concerns that have been raised by the petitioners, especially in PE1007 from the Greater Knightswood Elderly Forum.

The Convener: I presume from my observation of committee members that we are comfortable with that recommendation. We must await the journey of the Disabled Persons' Parking Places (Scotland) Bill through the parliamentary process. In the interim, we should keep the petitions open.

It might be worth writing to the Convention of Scottish Local Authorities about any guidance that it has on the issue that is more specifically to do with local authorities' implementation of policy for dealing with dropped kerbs and various other actions to do with roads, land services and so on. We should write a formal letter to COSLA to that effect, and we will await the outcome. Is the committee happy to accept that recommendation and the suggestion by Bill Butler?

Members *indicated agreement.*

Broken Glass (PE986)

The Convener: PE986, from Woodlands primary school in Cumbernauld, is on the protection of the public and of domestic and non-domestic birds and animals from the dangers of broken glass; on the promotion of the use of plastic bottles as an alternative to glass; and on the introduction of a refundable deposit scheme aimed at reducing the extent and levels of broken glass in public places. The petition has been in front of us before, and I invite comment on how members propose to deal with it.

Bill Butler: I note that the Scottish Government has investigated the matter on a number of occasions and has stated its position. My information is that there are no plans to carry out further research at this time, but the matter—as ministers of all political shades and complexions keep on telling us—is under review. I do not know what further we can do that would be effective. Colleagues might have other opinions.

John Wilson (Central Scotland) (SNP): I suggest that we suspend further consideration of the petition in view of the on-going review of antisocial behaviour legislation and scrutiny of the Climate Change (Scotland) Bill. We should invite the Government to respond further, once we know the details of the bill. We should then allow the petition to move forward on that basis.

The Convener: I am fairly comfortable with that, so that is perhaps what we should do. There are elements of the issue that require some further discussion. We will take that course of action.

Beverage Containers (PE1145)

The Convener: PE1145 is from Dr Alexander Gemmell. Our discussion on this petition will be similar to that on the previous one. The petition seeks a statutory deposit and return scheme on all used beverage containers. I invite members' views. Do we wish to consider the issues raised by this petition and the petition on broken glass in the round, or do we see this petition as separate?

John Wilson: I would be keen to consider this petition together with the previous one; we could ask the Government to respond once it has developed the Climate Change (Scotland) Bill.

The Convener: Whenever the petitions come back to us, it would be useful to keep them grouped together, as similar areas are affected.

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

The Convener: The next petition is PE1036. We have already had the opportunity to hear the petitioner speak on the issue, which concerns employees with the Remploi trade union consortium. The petition urges the further promotion of employment opportunities for disabled people by reserving local authority and other Government contracts to supported businesses, as permitted by article 19 of European directive 2004/18/EC.

I understand that the Department for Work and Pensions has established a working group on the issue, of which Remploi is a member, and that the Scottish Government is undertaking a literature search for research on which it may draw. We have not had a formal response from the petitioner in recent months, and the issue has moved on. With that in mind, I invite Robin Harper to speak, after which we will determine what to do next.

Robin Harper: I suggest that the petition has achieved as much as it could have hoped to achieve and that we can therefore now close it.

The Convener: Given how far we have taken the petition, I think that that is the correct course of action.

Independent Midwifery Services (PE1052)

The Convener: The next petition is PE1052. Again, we took oral evidence on it and discussed it in subsequent meetings. The petition, which is by Jayne Heron, calls on the Parliament to urge the Government to promote the services of independent midwives and to ensure that such services continue to be available to pregnant women in Scotland. When we last considered the petition, we invited the Scottish Government to meet the petitioner, the Independent Midwives Association and a selection of national health

service boards to discuss the issues that have been raised.

Nanette Milne: The communication that we have had from the petitioner states that she does not think that it would be appropriate to have a meeting with the Independent Midwives Association, as that organisation is perhaps too arm's length. She has suggestions about how to find out from health boards exactly what their views are, and she also suggests setting up a working group. We could follow up the suggestion of a meeting, albeit not with the people whom we suggested previously, and we should ask the Government to take on board the petitioner's suggestions.

Nigel Don: The first paragraph of the petitioner's letter gets to the nub of the issue. It states:

"It would be pointless to meet with Health Boards if they would not consider any kind of contract with self employed midwives."

I wonder whether the only way through the logjam is to write to all health boards asking them about that specifically. We might find that the boards do not wish to have such contracts. That is their choice—I am not suggesting that they should have them—but if that is the case, the petition will have come to an end and meetings will be unnecessary and unhelpful. That is the one thing that we could do to make progress.

Nanette Milne: I have a slight concern about whether the health boards would get back to us. We have experience of asking specific questions of health boards and their not getting back to us, which leaves us in limbo.

Nigel Don: If they do not want to reply, does that not tell us the answer?

Nanette Milne: Not necessarily. I am open to the suggestion, although a meeting is a good idea. Perhaps we could contact the health boards first and keep the petition open until we hear from them, after which we can decide what to do.

The Convener: My worry is that we end up trying to hit everything on the dart board. We should consider whether there is a specific suggestion that we could prosecute. We are trying to be helpful, and there is an ambiguity that requires a lot of careful and proper discussion among professionals in the arena. Initially, we should keep the petition open and try to pull that discussion together by providing an opportunity for the professionals to open up the dialogue a bit better. We can then see what comes out of that. To date, the matter has been handled in a very uncertain way.

Nanette Milne: Is there merit in doing the two together? We could try to get a meeting and at the same time get an opinion from health boards.

The Convener: We could do that. I see the look of loth in the clerks but, if that is members' view, I am happy to go along with it.

Bill Butler: If we try to do both at the same time, we might not have the information by the time the meeting is convened. We should invite the Scottish Government to hold the meeting as early as possible and to call together what it sees as all the relevant stakeholders. If the Government wishes to extract or compile information that would be helpful for that particular meeting, that is fine.

I tend to think that if you try to do two or three things at the same time to reach one objective, you lose effect and the focus on what you are trying to achieve. We should say to the Scottish Government, "Look, could you get this meeting convened, with appropriate stakeholders, to get the relevant information?" Let us try to reach a satisfactory conclusion for the petitioner.

The Convener: I am of that mind, but I just wanted guidance from members, two or three of whom have made broad points. Nothing precludes the action that Nigel Don has suggested, so I think—

Nanette Milne: It was my suggestion originally.

The Convener: Okay. We will go with what Bill Butler suggested and try to follow it through.

Endometriosis (Research Funding) (PE1057)

15:00

The Convener: The next petition, PE1057, has been discussed thoroughly by the committee. It is on behalf of the Save our NHS Group and it concerns research into endometriosis—which I will pronounce properly one day. The petition calls on us to consider ways of facilitating more effective diagnosis of such conditions in light of the recommendations of the Kerr report on the future of the NHS in Scotland. The Scottish Government and health officials have met the charity involved.

Nanette Milne: We have probably taken the petition as far as we can. The petitioner has expressed some disappointment that things have not been taken further, but his letter seems to accept that things have gone as far as they can for now. Because of the work being done by the national reproductive health research network and its clinical studies groups, further funding applications for research may yet come. That is the nub of what the petitioner wants, so I feel that we should close the petition.

The Convener: Okay. The recommendation is to close the petition on the grounds indicated.

Land Reform (Scotland) Act 2003 (PE1061)

The Convener: The next petition, PE1061, is fairly extensive. We have discussed it on a number of occasions, and representations have been made to us, including by elected members of different parties.

The petition is from Mr and Mrs Mark J Lochhead and Mr and Mrs Henry McQueen Rankin, and it calls on the Scottish Parliament to urge the Scottish Government to ensure that measures taken by communities to tackle antisocial behaviour in urban residential areas are not restricted by the duty of a local authority to uphold access rights under the Land Reform (Scotland) Act 2003.

Robin Harper: There are a couple of important points to note in the information that we have before us. The Scottish Government has clearly restated that measures to tackle antisocial behaviour in urban residential areas are not restricted by the duty of local authorities to uphold access rights under the 2003 act. There can therefore be a live discussion between the local authority and the petitioners, and we do not have a locus in that discussion. It is for them to solve it.

The Convener: I agree. Whenever possible, we have to ensure that we do not intervene in issues that councils have responsibility for. However, we have rightly been petitioned about the process that people go through, and we have heard passionate contributions. A video has been made that shows the proximity of the problems for the residents. The committee should try to encourage resolution at local level, but we should acknowledge that the ultimate arbiter will be the council.

Bill Butler: You are correct, convener, and Robin hits the nail on the head. However, we should consider writing to East Renfrewshire Council to express our hope that a mutually satisfactory resolution can be reached. The resolution should take note of the serious and legitimate concerns of the people who are directly affected. The local authority should use maximum flexibility and show a sensitivity and an application of common sense. The clerk might find some words that are much more to the point, but that should be the general tone of anything that we send to East Renfrewshire Council.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I think that the issue is covered under land reform legislation. It appears that it is just a little local difficulty, so we should not get involved.

The Convener: I never thought I would see the day when I heard John Farquhar Munro refer to land reform as a little local difficulty, given his history over the years both since and prior to his election to Parliament.

We need to stress what Bill Butler has said, with which a number of members concurred. It is important to state on the record that, in considering the petition, we have looked at the Land Reform (Scotland) Act 2003 and that the Government has indicated its specific position on the process of a review if we feel that there are on-going issues. The Scottish Government has stated that measures to tackle antisocial behaviour in urban residential areas are not restricted by the duty of local authorities to uphold rights under the 2003 act and that it is preparing a new antisocial behaviour framework that will, it is hoped, assist in such issues that get thrown up because of the interpretation of different pieces of legislation at a local level.

As a committee, we want to indicate that it is a matter for the local authority to address with its constituents. We hope that there will be some flexibility and discussion, and we urge the partners at a local level to pull that together to try to resolve the concerns that have been a persistent issue for the residents in question.

On those grounds, we should close the petition, recognise that we have taken our powers as the Public Petitions Committee as far as possible and urge that further discussion takes place at a local level to resolve the impasse that has emerged.

Robin Harper: I stress that we are sympathetic to the problems of the petitioners, and we appreciate that they might be disappointed by the decision. However, as has been said, we are calling on the council to use its common sense.

The Convener: The petition has been kept in the system, and there have been opportunities for direct representations to the committee. We have endeavoured to facilitate some solutions to the matter, given our awareness of the powers that we have a propos of the powers that the local authority rightfully has under the 2003 act. We have tried our best to deal with the issue, and I hope that we have clarified matters in relation to the national strategy and policy issues that the petitioners raised. I hope that there can be a resolution at a local level.

Nanette Milne: I do not disagree with anything that has been said. We feel—I certainly do—huge sympathy for those people, and the video that they put together for us is really quite shocking. An 87-year-old resident's greenhouse was smashed 20 times before the gate was put up, but it seems that there was no further problem once the gate was in place. It is obvious that that solution is helping the

situation. I know of a particular site in my own area where a gate was put up about 20-odd years ago—although not on a through road—because there was a big problem with litter and people wandering into a small passageway. There has been no trouble since, so the gates are definitely effective.

It is a pity that the petitioners have had such a problem in trying to solve the matter. I have a lot of sympathy for them, but there is not much more that we can do.

Nigel Don: I suggest that we tread a fine line. I share the sympathy for the petitioners, but we have to be careful not to be a court of appeal for local issues and not to encourage other petitions to us on the same basis. A balance needs to be struck. I came across a similar issue when I was a councillor. I do not think that it has got worse since I stopped being the local councillor but, if it has, it will be because the two neighbours have disagreed about what they want to do and, I suspect, because the local authorities and the police have disagreed, too. Such things are not easy, and we need to be careful not to take sides, however sympathetic we may be.

The Convener: I appreciate that point, and you are right in that respect, but equally we have a responsibility to address petitions when they come to us. We have stated our concerns on record, which will, I hope, send a strong message on any potential future issues of a similar ilk.

A76 (Safety Strategy) (PE1067)

The Convener: PE1067, which has previously been discussed by the committee, is from Councillor Andrew S Wood and Councillor Gill Dykes, on behalf of ward 8—a multimember ward—of Dumfries and Galloway Council. The petition calls on the Scottish Parliament to consider and debate the need for the upgrading of, and the implementation of a safety strategy on, the A76. In particular, the petition seeks investment in signage and road safety.

Do members have any suggestions on how we should deal with the petition, especially in light of the strategic transport projects review?

Robin Harper: We can close the petition given that the A76 is included as project 5 in the strategic transport projects review. The petition has achieved its objective.

The Convener: Okay, we will accept the recommendation to close the petition on that ground.

Primary Schools (Visiting Specialist Teachers) (PE1071)

The Convener: PE1071, which has previously been considered by the committee, is from Ruchelle Cullen on behalf of Lochinver primary school parents and teachers association. The petition urges specific support in rural areas for access to visiting specialist teachers of music, art and physical education.

Do members have any comments?

Bill Butler: Expressive arts and physical education will form part of the curriculum for excellence, which should prove helpful as it is developed. Given that fact, I suggest that there is not much more that we can do, although colleagues might have other views.

Robin Harper: As far as I know, we are nowhere near achieving the target of two hours of quality PE each week for every child, and the expressive arts have a long way to go before they achieve the required status within the curriculum for excellence. Therefore, I would prefer to keep the petition open so that we can ask the Government to report back to us on the issue at some time in future.

John Wilson: I support Bill Butler's suggestion that we close the petition given the development of the curriculum for excellence. The difficulty with Robin Harper's proposal is that we would need to decide for how long we should keep the petition open and how frequently we should ask the Scottish Government to report back to the committee. Given that other parliamentary committees will scrutinise the curriculum for excellence, I respectfully suggest that we should leave it to the appropriate committee to do that. We should close the petition today.

The Convener: Despite the difference of view, I am conscious that we all share Robin Harper's concerns. Perhaps in closing the petition, we can pass it for information to the Education, Lifelong Learning and Culture Committee so that it is aware that the petition was lodged. I am sure that the issue will emerge in the review process for the curriculum for excellence and in further spending rounds in the next few years. As we canter towards the 2011 elections, I am sure that some policy initiatives that influence such debates will emerge.

Bill Butler: I will take your word on that, convener.

The Convener: On everyone's behalf, I am working hard in our party on that issue in sport.

We will close the petition on the ground that we have taken the issue as far as we can through the petitions process, but we will refer it for information

to the Education, Lifelong Learning and Culture Committee.

Scottish Prison Population (Catholics) (PE1073)

The Convener: PE1073, which we have considered a number of times, is from Tom Minogue. The petition calls on the Parliament to investigate and establish the reasons for the apparently disproportionate number of Catholics in Scottish prisons. Again, we have had a series of items of correspondence on the issue.

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

John Wilson: I am disappointed by the response that the committee has received from the Cabinet Secretary for Justice. As the committee member who asked that the investigation consider whether a disproportionate number of members of the Muslim community are imprisoned, I believe that, given that research shows that a disproportionately large number of people from particular populations find themselves in prison, the Scottish Government should undertake research on what the root causes for that are.

It is okay to say that we can identify that those individuals come from the more deprived areas, but it is clear that more research must be done to show the links between deprivation and people finding themselves in prison. I have concerns about whether the court system treats people from deprived backgrounds less fairly than people from other backgrounds. I urge the committee to write to the cabinet secretary again to ask him what research, if any, the Scottish Government intends to do to find out whether there is an underlying bias in the court system that prejudices any case in which people from a deprived background end up in court.

15:15

Marlyn Glen: The petition is difficult; I would probably support a move to close it, but it raises many wider issues. I can see the frustration that is caused.

A wider concern that we need to address is the problem of urban deprivation, but I am not sure that the petition asks us to do that. I agree with John Wilson that we are in a difficult position, but the concerns that are raised in the petition have probably been answered.

Bill Butler: We have a difficulty, in that although John Wilson asked for the cabinet secretary's response to cover the Muslim community, that is not what the original petition asked for. However, although I would not say that the cabinet

secretary's response is curt, it lacks sufficient detailed argument to convince me that we should close the petition now.

We might not be able to go much further with the petition but, on balance, I agree with my colleague John Wilson that we should have one more shy at this. We should see whether the cabinet secretary can give us a little more detail about why he feels as he seems to feel—or rather, as that is unfair, why the Government feels as it seems to feel—given his fairly brief response. If we do that, we might have a little bit more to work with.

The Convener: We will promise the cabinet secretary that we will not necessarily invite him back to the committee, in case he is scared about that.

John Wilson may amplify my observations. In a sense we are all guesstimating. Even the presumed academic research, limited as it is, does not get to the root causes. One or two members have engaged in discussion on the issue, which opens up a range of perspectives. I am reluctant to close the petition and I am aware that we need to investigate the issue a bit further.

I wonder whether it would be useful for the committee to identify two or three researchers who are doing social science research on the proportion of people in prison who are from ethnic groups, or who are defined as being from other faith groups, and perhaps get a dialogue going with them. As the convener, I would facilitate that and invite other members to participate in the discussion, so that at least we could feel a wee bit more comfortable.

The petitioner has raised a crucial issue that needs to be explored to ensure that there is equity and fairness in our broader society. The response that we have received leaves us with a lack of clarity. That is my suggestion, but other members may have other views.

Bill Butler: That is fair enough, convener. I certainly need to get a bit of clarity on the issue. The petitioner's response to the Scottish Government's response states that Mr MacAskill's reading of the comments by Professors Coyle and McIvor and his reading of Roger Houchin's report bear

"no relation to what they actually stated in fairly clear terms."

There seems to be dispute over even the most basic conclusions that those researchers arrived at after their research. We need more clarity from the Scottish Government on why it believes that, because of the research of Roger Houchin and Professors Coyle and McIvor, there is nothing more to be said on the issue. The petitioner takes an absolutely contrary view.

Robin Harper: It would assist the petitioner if the huge amount of sociological and educational research that is probably available in the area could be pulled together and analysed, to address the general question of how people land up in prison in Scotland.

The Convener: We could explore whether people are willing to engage with the committee on the proposal that I have made. We could ask the Scottish Parliament information centre to pull together a literature search and some key information. I do not criticise the minister or the Scottish Prison Service, but I think that we are getting a partial view on the research that is not allowing us to feel comfortable about its conclusions. I am reluctant for us to close petitions unless we are fairly conclusive about why we are doing so.

John Wilson: I point out for Marlyn Glen's benefit that, when the petition first came before the committee, I raised the issue of the proportion of Muslim prisoners in Scotland. The petitioner wrote back to us welcoming the fact that I had done so. He felt that his failure to raise the issue was an omission and he was grateful to the committee for taking it on board, to broaden the debate about the populations that currently reside in our prisons.

Marlyn Glen: I am happy to support the suggestion that we widen the research.

The Convener: I thank members for their patience in dealing with the issue, which we need to interrogate much further, and for their measured contributions.

Kinship Carers (PE1085)

The Convener: PE1085, from Caroline Garrett, on behalf of You Are Not Alone Family Support Services, calls on the Parliament to urge the Government to provide total recognition of kinship carers. Announcements have been made by ministers with responsibility for the matter and a number of members have dealt with it in their constituencies and regions, so we are aware of the broad issues that the petition raises. Do members have strong views on how the committee should deal with the petition, which we have considered previously?

Announcements have been made, so the main issues are implementation and resources, at both national and local level. I think that we should close the petition, because we have identified kinship care as an area for debate, although there may be issues for us to revisit. There is a debate to be had about what social work services can provide, based on the grant that they receive from local councils, about allocation of resources by the Scottish Government, and about the implications of the announcements for benefits at United

Kingdom level—all of us are getting correspondence on that issue. I recommend that we close the petition but recognise the need for us to be vigilant on the issue, which may be raised in future in other relevant committees of the Parliament or in the chamber. Is that agreed?

Members indicated agreement.

Wind Farm Developments (PE1095)

The Convener: PE1095, from Sybil Simpson, on behalf of the save your regional parks campaign, calls on the Parliament to urge the Government to provide greater protection for the national and regional parks of Scotland from industrialisation, including wind farms and their associated quarries, roads, cable trenches and substations. The committee has considered the petition previously and, in recent months, we have deliberated on the issues that it raises. Do members have strong views on whether we should continue or close the petition?

John Farquhar Munro: We should close it. Under current planning legislation, there is sufficient regulation governing the matters that the petitioner is complaining about.

Robin Harper: There are many outstanding questions. At one level, it would be correct for us to close the petition, as the planning system should take care of some of the issues that have been raised. However, we asked for information on the number of planning applications made, showing

"those rejected and approved ... in each regional and national park in each year since 2003".

We also wanted to know that planning authorities are using appropriate criteria to ensure that any development proposal in a regional park properly addresses any adverse impact that may be caused. Essentially, we wanted to know whether there is a higher test for planning applications in regional parks and whether that test is being applied properly. Given my support for the inclusion of the Sandford principle in the National Parks (Scotland) Bill, I was particularly keen to know why the Sandford principle should not be applied to regional parks as it is applied to national parks.

There are a number of other questions that could usefully be asked of the Executive to satisfy the petitioner that the questions have been asked. The answers might not all be to everybody's liking, but we need to have them for the sake of clarity.

Nanette Milne: I agree that a lot of questions need to be answered. It might also be interesting to find out the position of the newly appointed Minister for Environment.

The Convener: Only if we endorse her appointment later in the week. There is a wee bit of trouble with the budget as well.

There are a number of issues and we need to take cognisance of the comments from Robin Harper and Nanette Milne. We may want to explore some other issues.

John Wilson: Following on from Robin Harper's point, I suggest that we ask about the proposed Minister for Environment's role in monitoring planning developments in regional parks. Given the response that we received from the Government, it would be useful to ask why ministers or the Government do not monitor planning applications for developments in regional parks. Surely, the Government should monitor any significant developments in regional parks as it monitors developments in national parks and should try to draw the planning process for regional parks into line with the planning regulations that apply to national parks.

The Convener: Okay. We will keep the petition open with attention on the issues that members have raised.

School Buses (Seat Belts) (PE1098)

The Convener: The next petition is PE1098, from Lynn Merrifield, on behalf of Kingseat community council, calling on the Scottish 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 and to ensure that, as part of a local authority's consideration of best value in relation to the provision of school buses, proper regard is given to the safety needs of the children.

The committee has heard strong views on the matter and we have expressed strong views about what we would like to see done. There are still some unresolved issues that we want to explore further.

Nanette Milne: Yes, we need to ask what pressure is being placed on local authorities to fit seat belts in buses. I am pleased that, since we last discussed the petition, Aberdeenshire Council has decided that it will fit seat belts on school buses. However, the policy is not consistent across the country. I do not see why a child should be safer in Aberdeenshire than in other parts of Scotland, so that must be addressed.

The Minister for Transport, Infrastructure and Climate Change, Stewart Stevenson, has been quite involved in the matter through the petitioner, Ron Beaty, who gave evidence to the committee recently. The minister has attended local meetings in Aberdeenshire, and it would be interesting to have him at the committee to ask his views on the issues that have cropped up.

Bill Butler: Like Nanette Milne, I think that it would be advantageous to have the minister along so that we could pose some questions with regard to the lack of uniformity in policy across all 32 local authorities. We could ask him what the Government will do, in conjunction with others, to make the policy more uniform. I agree with Nanette Milne that we should invite the transport minister here. I know that he is a shy, retiring individual, but I am sure that he would be able to respond to our questions.

Nigel Don: I would concur. Stewart Stevenson, Nanette Milne and I were recently at a meeting with Aberdeenshire Council. I am delighted to hear that it is pushing things forward. It would probably be useful if we could get the minister here. We must be slightly careful, though, not to assume that we will get uniformity in everything. The point about local councils is that they sort out their own priorities, and uniformity is not consistent with their doing that. However, safety is safety.

15:30

The Convener: I agree. However, as many folk say, if we need seat belts for car journeys, why can we not have them for school bus journeys?

John Wilson: Aberdeenshire Council is to be congratulated on introducing seat belts on school buses. However, I represent an area in which there is lot of cross-border school transport. For example, there are pupils from the east end of Glasgow who travel to Coatbridge. You could have schoolchildren travelling from one local authority, which has a policy on seat belts, to another area in which there is no policy on seat belts. In a policy such as this, it would be useful to have uniformity. Hopefully, we can get the transport minister and local authorities to understand the reasoning behind the petition and introduce a universal policy on seat belts for schoolchildren in Scotland.

The Convener: There seems to be reasonable unanimity on looking for uniformity.

John Farquhar Munro: We have to be careful. I think you will find that most local authorities and transport operators that operate in school transport have lap belts fitted in nearly all their vehicles. I am sure that that is part of the conditions in a contract for carrying pupils. However, the petition asks for a three-point linkage, which is quite a different arrangement.

The Convener: If we invite the minister along, that could be among the technical issues that he will be briefed on, so we can perhaps question him on that as well. Do members agree with those suggestions?

Members indicated agreement.

School Closures (PE1130)

Rural Schools (Closures) (PE1132)

The Convener: The next two petitions are broadly related, in the sense that although they are from different parts of the country, they are about procedures when local authorities announce rationalisation or closure programmes for schools. PE1130, from Scott Reed, is about Drummond community high school in Edinburgh; PE1132, from Sharon Miller on behalf of the community of Sorn in Ayrshire, urges her local authority to consider issues of rural schools in terms of the impact of a school closure on a community.

We have had a chance to discuss the petitions. In both cases, the schools are now part of a different strategy because the local authorities withdrew from the initial closure proposals. There has therefore been some partial success in that respect. On the broader issue, we understand that there has been a further statement by the minister with responsibility for schools in Scotland relating to the consultation procedure, particularly for rural schools. On those grounds, I recommend closure of the two petitions.

Members *indicated agreement.*

Blood Donation (PE1135)

The Convener: The next petition is PE1135 from Rob McDowall, calling on the Scottish Parliament to urge the Scottish Government to review existing guidelines and risk assessment procedures to allow healthy gay and bisexual men to donate blood. The petitioner has been in front of the committee, and there has been much discussion of the issue in the committee. There are issues awaiting deliberation by Government and by the agencies relating to the collection of blood in Scotland.

Bill Butler: We could go for the option of closing the petition, but I do not think that we should. However, I think that we should suspend the petition, if that is possible. I am sure that colleagues would be averse to supporting a petition without the full knowledge that we as lay people can gain from doctors and scientists. Without the consideration that will be taken forward by the Health Protection Agency in England, and the Scottish National Blood Transfusion Service and the Scottish Government, we should not pronounce on the petition one way or t'other.

We should simply await those investigations by medically qualified folk. When we see what they recommend, perhaps we will be able to pronounce on the matter, but I am certainly not willing to pronounce on it one way or t'other when scientific investigation is still being done. We should

proceed on the basis of scientific evidence. I suggest that we suspend a decision on the petition, rather than close it.

The Convener: Do other members agree?

Members *indicated agreement.*

Bone Marrow Services (PE1204)

The Convener: PE1204 is from Jessie Colson, on behalf of the Richard Colson Severe Aplastic Anemia Fund, calling on the Scottish Parliament to urge the Scottish Government to recognise and promote the life-saving impacts that bone marrow testing and donation can have on people with life-threatening illness and to provide adequate funding to the Scottish National Blood Transfusion Service to support bone marrow services and encourage more donors.

The constituency member is here to speak to the petition. I invite Michael McMahon to speak and then we will decide what to do with the petition.

Michael McMahon (Hamilton North and Bellshill) (Lab): Thank you, convener. I have been asked by the petitioners to come today because their son is particularly unwell at the moment. They wanted me to highlight a couple of issues. The primary aim of the petition has been to try to get greater support from the Government for the promotion and delivery of bone marrow services. The other aspect was concern that too much of the current service and promotion depends on charitable donations and the support of one particular charity, the Anthony Nolan Trust.

The petitioners asked me to use the following example to show why limited support is a difficulty. Because of the current financial circumstances in the country, financial support to the Anthony Nolan Trust has been reduced. As part of the awareness-raising campaign in which the Colson family is involved, they were given access to a car. That car had their son's name and the charity that they were promoting emblazoned on it, but the car has had to be taken off the road because there is no financial support to keep it going. That is exactly why the petition was lodged—the Colsons should not be left in that situation because of the vagaries of the economy, and important issues such as bone marrow services and transplantation and donation should not be left to chance in that way.

The family has asked me to emphasise just how important it is that support for the service comes from more than just the charitable sector. They have asked whether the committee will consider continuing to inquire into what services can be provided on a statutory basis, if necessary, to ensure that people such as the Colsons, who are

affected by such issues and who campaign around them, are not solely dependent on charity.

The Convener: Thank you, Michael. Are there any observations from committee members on how we should progress the petition?

John Wilson: I recommend that we forward the petitioner's letter from 12 January to the Scottish National Blood Transfusion Service and the Scottish Government, seeking a response to the five specific issues that it raises. We should also seek an update from the Scottish national cord blood bank.

As regards Michael McMahon's comments about the support that is provided to people in this situation, we might need to ask the Government what support is available, particularly with regard to transport.

The Convener: There seems to be agreement from committee members to that course of action. We will respond formally to the petitioners, but given that they have asked Michael McMahon to make representations, I ask him to tell them that we will keep the petition going and follow through on the issues raised in it.

Domain Names (PE1144)

The Convener: The next petition is PE1144, on behalf of dotSCO, calling on the Parliament to urge the Government to give full support to the dotSCO application to the Internet Corporation for Assigned Names and Numbers. The petition has been discussed at the committee. Do members have any strong views on it?

John Wilson: Given the response from the petitioner, we can close the petition. It is clear that discussions are taking place. The Scottish Government is supporting the initiative, without any financial contribution, which is to be welcomed. Hopefully, we will see an early response from ICANN on the registration of this very useful domain finisher.

The Convener: Thank you for those comments. We will formally close the petition.

Fire Service Boards (PE1147)

The Convener: PE1147, by Mrs Annmargaret Watson, on behalf of the fire reforms action group, calls on the Parliament to urge the Government to review current legislation to ensure that each local authority is represented on the fire service joint board, to ensure that board decisions reflect local concerns and views, and to revise legislation that prevents local authorities from increasing fire cover without full joint board authorisation and bring it into line with police service cover. I know that members have raised that issue in the past.

Angela Constance (Livingston) (SNP): I appreciate the committee's interest in the petition. The circumstances surrounding it relate to a diminution in fire services in the Livingston constituency. The crux of the petition is the difference between fire boards and police boards. It is unfortunate that there is a difference of opinion about the nature of those differences. I am aware from the Government's response to the committee and my discussions with Government officials that the Government seems to consider that the primary legislation and the statutory orders in relation to fire boards and police boards are largely very similar. However, I dispute that—there is a significant difference in the primary legislation and statutory orders relating to police boards and fire boards.

My information is that

"paragraph 3(2) of the Police Order allows a constituent council to make use of the services of the police for the purposes of the council's functions under any enactments other than those relating to the police. This provision allows, for example, a council to 'top up' the police Board's budget to pay for additional police officers to assist the council in its anti-social behaviour responsibilities."

The crux of the matter is that

"There is no such equivalent provision in the fire Order."

In primary legislation, where the Scottish ministers establish a statutory joint board under section 62B of the Local Government (Scotland) Act 1973 for any local government functions, a constituent council is not prevented from exercising any of the functions of the joint board, with the explicit exception of fire and rescue boards.

I maintain that there are significant differences between police boards and fire boards. My position and that of my constituent Mrs Annmargaret Watson—and the cross-party position of West Lothian Council—is that we would like there to be parity between fire boards and police boards.

I have written again to the Minister for Community Safety with the information that I have just given the committee. As the constituency member, I will continue to lobby as hard as I can and to point out the significant differences. I still think that there needs to be a face-to-face meeting. It is all very well to exchange views about what is possible in various pieces of legislation, but a face-to-face meeting between West Lothian Council and either the minister or a representative of the Government would be helpful. If the committee chooses to do anything to add its voice to that, it would be appreciated.

15:45

Robin Harper: I should declare an interest as a Lothians list member, although I think that I am still permitted to talk about the issue.

We should write to the Scottish Government again and ask it to meet Angela Constance and the petitioner to discuss the issues that have been raised. We should also ask the Government to report back to us on the results of those discussions.

The Convener: I do not think that members disagree on that course of action. I hope that that will assist with some of the issues that Angela Constance has raised.

Robin Harper: The meeting should also include the Fire Brigades Union and West Lothian Council.

The Convener: Okay. Do members agree to take that recommended course of action?

Members indicated agreement.

Specialist Schoolteachers (PE1193)

The Convener: PE1193, by Paul Tierney, calls on the Parliament to urge the Government to create a parents contract, whereby local authority schools would be required legally to ensure that the core skills of each subject incorporated in the school curriculum, including reading skills, were taught by a teacher who specialises in that subject. We have considered the petition previously.

John Farquhar Munro: The recommendation to close the petition is to be welcomed.

The Convener: We have discussed the issues. I am not convinced that we can meet the petitioner's requests, given the nature of the agreement on subject and qualification development and the curriculum. Do members agree to close the petition on those grounds?

Bill Butler: I agree, because the suggestion would raise difficulties for the management of schools, not that I was ever in the management. It would remove the flexibility of local authorities to respond to teacher supply issues. Perhaps in the best of all possible worlds we could go some way towards what the petitioner is asking for, but we must be frank and say that the petitioner's request cannot be effected. We must be honest and close the petition.

The Convener: Do members agree to close the petition?

Members indicated agreement.

Access to Legal Representation (PE1197)

The Convener: PE1197, by Bill Alexander, calls on the Parliament to urge the Government to reform the legal system to adopt the Scandinavian system of allowing unrestricted access to legal representation before the court, for example by allowing non-lawyers to appear in court on behalf of other parties. Are there any comments?

Nigel Don: I could make all sorts of comments, but I will start by apologising. The letter that we have received from Kenny MacAskill points out clearly that I got the wrong end of the stick the last time we discussed the petition. Having read the *Official Report* of the meeting, it is clear that I did. I apologise to all concerned for doing so.

The Convener: Are we recommending closure of the petition? Nigel Don referred to the letter from the Cabinet Secretary for Justice, who has indicated the role of the law officers in relation to who can make representations in court. We should amplify the issue, for the benefit of the record.

Nigel Don: My reading of the large number of words that are before us is that, basically, the professionals are defending their patch, which is what one would expect them to do. Having said that, they might well be right. The message is that if somebody wants to represent people in court, they should get qualified to do so.

Bill Butler: We could suggest to the petitioner that they get involved in the consultation on the Scottish Law Commission's eighth programme of law reform, which runs from 2010 to 2014. That would be a way in. However, I agree with Nigel Don that there is nothing more that we can do.

The Convener: I therefore recommend closure of the petition on those grounds.

Health Visitors (PE1198, PE1199, PE1200)

The Convener: PE1198, PE1199 and PE1200 relate to health visitor programmes and public consultation with service users and health professionals before any substantial change in primary care provision is enacted. We considered the petitions previously and had discussions with the relevant minister. The petitions urge the Government to ensure that, when changes are proposed to the structure and role of health visitors, transparent, effective and meaningful public consultation with service users and health professionals is carried out. Are there any outstanding issues?

Bill Butler: Perhaps a reasonable course of action would be to write to the Government and to NHS Greater Glasgow and Clyde to seek their views on the written responses that we have received and on the action that they will take to

address the concerns that have been raised in the petition and in those responses.

John Wilson: We should also ask the Government what progress has been made with the implementation of the health visiting review, which is due in April 2009, how communication and dialogue between all the relevant partners has improved, and what positive outcomes have been brought about.

The Convener: Are members okay with those comments and happy to pursue the issues in the petition?

Members indicated agreement.

Permitted Development Rights (Port Authorities) (PE1202)

The Convener: PE1202, by Joyce MacDonald, calls on the Scottish Parliament to urge the Government to remove the general permitted development rights of port authorities. Are there any questions or comments?

John Wilson: In light of the Government's recent announcements on the development of ports within Scotland in relation to the strategic planning review, I am reluctant to close the petition. Although the Government has responded by saying that the law was reviewed in 2006, there are issues around the general principles of port authorities' powers and planning accountability—if any—in relation to developments. We could write to the Government to ask whether it intends to carry out any further reviews—although we understand that there was a review in 2006—based on the decisions that have been forthcoming from the Government in the past month.

The Convener: I am reasonably comfortable with that suggestion, and it appears that members are too. We will keep the petition open with a further inquiry, and we will bring it before the committee again.

Ferry Services (Road Equivalent Tariff) (PE1203)

The Convener: PE1203, by Joan Richardson, calls on the Parliament to urge the Government to review ferry services, to develop a long-term strategy for lifeline services to 2025 and to provide an immediate minimum discount of 40 per cent on ferry fares. The committee has already discussed the petition. Are there any comments?

John Farquhar Munro: What the petition asks of Parliament is already being implemented, because the Government has introduced the road equivalent tariff pilot scheme on several ferry routes.

The Convener: I am not sure that the clerk caught that—he was concentrating. Was it in Gaelic?

John Farquhar Munro: I said that what is asked for in the petition has already been implemented—the road equivalent tariff pilot scheme has been implemented by the Government and is on-going.

The Convener: Do you want to keep the petition open or close it?

John Farquhar Munro: I beg your pardon—I want to keep it open.

The Convener: Do members agree with that suggestion?

Members indicated agreement.

The Convener: We will keep the petition open.

Public Transport (Equal Access) (PE1206)

The Convener: PE1206, by Catriona Black, on behalf of the mums need to use Lothian Buses too campaign, urges the Scottish Government to encourage public transport operators and appropriate stakeholders to provide parents and carers of babies and young children with equitable access to public buses when using prams, travel systems and buggies. There is further correspondence on the issue, and the petition has previously come before the committee. Are there any comments or observations on what to do with it?

Bill Butler: We do not have a locus in terms of the conditions of carriage—those are a matter for each bus operator. There is guidance in the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) (Amendment) Regulations 2002, which clearly define the rules on the conduct that is expected. I am not sure what else we can usefully do, but the convener will be open to suggestions from other members.

The Convener: Do other members have any comments?

Nigel Don: I have to agree with Bill Butler. I do not see what else we can do. The petition seems to have got to the end of the road—although not back to the bus station, unfortunately. I am mystified as to why Lothian Buses persists in taking an approach that no other bus company takes, as far as I can see. However, we do not have the power to make the company change its mind. We might just have to wait until it does so.

The Convener: Shirley-Anne Somerville has just arrived. Shirley-Anne, we are discussing what—if anything—we can do about PE1206. So far, members have said that there is not much more that we can do. I know that you have raised

the issue, so we wanted to get hold of you before concluding our consideration of the petition.

Shirley-Anne Somerville (Lothians) (SNP): I apologise for my late arrival, convener. I had to be pulled out of the meeting of the Transport, Infrastructure and Climate Change Committee.

There is still a role for the Scottish Parliament. I urge the committee to consider two points. First, I see from the submissions that you are still waiting for replies from UK Government ministers on the issue. It would be advisable to await a response from Westminster, which might provide more information about how regulations are implemented and the difference between what is said in guidance and what happens in reality.

Secondly, and on a wider point, the Parliament has a responsibility to encourage equal opportunities. Companies have been told that, by law, they must consider disabled groups, which is entirely appropriate, but it is disappointing that groups that are not mentioned in legislation, such as mothers of young babies, are being left behind. I think that that is discrimination against carers of young children. We should bear it in mind that we are talking not about a pram ban but a ban on babies and young children.

If equal opportunities are to be taken seriously, they must be for all vulnerable groups and not just for groups that are covered by legislation. Someone needs to stand up for groups whose needs are not required by law to be catered for, and someone needs to investigate how a company can continue to discriminate against a vulnerable group. I strongly suggest that the Parliament can and should play that role, to ensure that vulnerable groups in society are properly represented and are not forgotten.

The Convener: Thank you. I know that you rushed in to make your comments—you did well.

Robin Harper: I declare an interest as a member for the Lothians.

Does Shirley-Anne Somerville think that we should refer the petition to the Equal Opportunities Committee?

Shirley-Anne Somerville: I would be happy if you did that, as I am sure the campaign group would be. The petition highlights a problem about a vulnerable group in society. I appreciate that, in many ways, the Scottish Parliament's hands are tied in relation to what the Public Petitions Committee and the Scottish Government can do, but the problem will continue and it is an equal opportunities issue.

The Convener: The issue is sensitive. The committee has received submissions from groups who campaign on behalf of individuals who have a disability, who feel strongly that, given the legal

framework, their rights should predominate. Bus operators have told us in correspondence that they are trying to manage divergent expectations and that their primary duty is to ensure that there is space on buses for individuals who use a wheelchair. I do not know whether the issue can be resolved. I will be honest and admit that I think that a wheelchair user's need to be able to use a bus is more important than a young mother's need, irrespective of the inconvenience that might be caused.

Shirley-Anne Somerville: I would have much more sympathy with Lothian Buses if I thought that that was why the policy was developed, but I do not think that, for two reasons. When I asked in correspondence when the company had sought legal advice, I was told that it sought advice from Brodies LLP on 8 August last year. The ban was introduced in June 2008. I am surprised that legal advice was not sought before June, if the ban is supposed to be based on that advice.

I also asked whether figures were available that detailed the number of complaints about prams. It took two weeks for the company to get back to me, because the figures were not available. When it got back to me, the figures covered foldable and unfoldable buggies. Given that Lothian Buses did not have those figures to hand, the figures that it provided obviously were not based on a report that detailed the numbers of complaints and the problems that caused them.

16:00

I asked how many complaints had been submitted because of problems with suitcases or luggage or because buses had been full of commuters, with the result that wheelchair users could not get on them. I am still waiting for a reply to that, albeit that I asked for the information just last week. The fact that the company does not have figures that break down the reasons why wheelchair users could not get on buses shows that it was not looking at the problem of wheelchair access in its entirety; it simply picked on the issue with prams.

We have reached a position in which, instead of trying to find a solution, the company is defending its policy by any means. The way in which it has sought to do so is particularly disappointing. I believe that Lothian Buses drew the committee's attention to an Ipsos MORI poll.

The phraseology has been used that in the battle of the wheels, the wheelchair users have won, but no one has won. Wheelchair users are still having problems getting on to Lothian buses because of foldable prams, suitcases and full buses. The problem is not being dealt with. If wheelchair access is indeed a problem, we must

examine it in the round, rather than pick out of thin air a policy that does not seem to be based on legal advice or complaints.

Bill Butler: I guess that all colleagues on the committee, all members of the Parliament and the majority of members of the public will have a great deal of sympathy with the petition. I do not mind if we do as Ms Somerville suggests and wait for replies from Westminster on a number of issues pertaining to the guidance and its implementation—that would be fine—and I do not disagree with referring the petition to the Equal Opportunities Committee, if that were thought appropriate. The problem is more to do with the fact that the legislation—which I would have hoped would be more passenger friendly than bus operating company friendly—is reserved to Westminster.

I do not think that the proper balance has been struck, but that is not a matter for the committee or even the Parliament to address. I do not have any objection to our waiting for the results of the monitoring of the guidance that has been issued or to our referring the petition to another committee, but, in the end, that might not get us anywhere, which would be unfortunate.

Marlyn Glen: As a member of the Equal Opportunities Committee, I am not sure how referring the petition to that committee would progress matters, as consideration of it would not fit into our work programme. We would still be in the same position.

The member makes an extremely strong case, which comes back to the point that only Lothian Buses has taken the action in question; everyone else must have worked out how to solve the problem. I agree that we should not close the petition but should wait for replies to the letters that the member has written and from Westminster about the guidelines.

In the meantime, we can only hope that Lothian Buses will open up discussions and talk about the issue. As Shirley-Anne Somerville says, wheelchair users need to be able to get on to buses, regardless of what is in their way. From an equal opportunities perspective, there is certainly an argument that the gender duty is just as strong as any other duty. Women with children also need to have access to transport.

Nanette Milne: I am happy with what has been suggested. I am not sure whether Shirley-Anne Somerville knows whether Lothian Buses has been in communication with other companies. The buses and trains that I travel on have notices up that ask passengers to vacate a space if a wheelchair user needs it. It is clear that wheelchair users have priority, but if there is no wheelchair user to use a space, there is no reason why other

people should not use it, whether for a buggy or for luggage.

Shirley-Anne Somerville: Lothian Buses does not appear to be interested in finding a solution. The transport committee of the City of Edinburgh Council, which owns Lothian Buses, requested that Lothian Buses meet the campaign group. The transport committee is interested in a public education campaign, in which everyone who might use the wheelchair spaces gets a leaflet with information and advice.

The problems continue. Lothian Buses is continuing with its policy and has not taken up the council's request. The transport committee gave its instructions a number of months ago, but Lothian Buses has refused to comply.

Bill Butler: And you say that Lothian Buses is owned by the council.

Shirley-Anne Somerville: Indeed.

Bill Butler: Well, that is a strange one.

I hope that Lothian Buses would not want to be seen as a company that is deaf to its owners and is instituting what is, in effect, a baby ban. That would be very bad publicity, so I hope that the company will desist. "Baby ban" would be one of the least productive slogans for a publicly-owned company that is trying to attract customers. We all agree on that, do we not, convener?

The Convener: The recommendation is that we keep the petition open, but the question remains whether it would be appropriate to refer it to the Equal Opportunities Committee.

Marlyn Glen: I am concerned about the petition being batted to the Equal Opportunities Committee and nothing happening for a long time. If this committee keeps it on the table, we can give it more of a push. Are we in a position to write and ask about the meeting that should have taken place, just to encourage things along?

The Convener: Yes, we can do that. We will take on board all the recommendations that committee members have made. A debate continues in the Lothians about the right to use bus services.

We will keep the petition open and pursue the recommendation that we write to Lothian Buses about the concerns that have been raised.

Bill Butler: Can we also write to City of Edinburgh Council to ask whether there is anything that we can do to assist it in persuading the bus company to do its duty?

The Convener: Okay. Thank you, Shirley-Anne. I know it was a bit of a rush, but you can get back to the Transport, Infrastructure and Climate Change Committee now.

16:07

Meeting suspended.

16:15

On resuming—

Repairing Standard Enforcement Orders (PE1208)

The Deputy Convener (John Farquhar Munro): The convener has another appointment, and has had to leave us prematurely.

PE1208, from Carol Ann Bowmaker, calls on the Scottish Parliament to urge the Scottish Government to amend all relevant legislation to ensure that it is the private rented housing committee, and not the private tenant, that is cited as respondent or defender in any appeal by a private owner or landlord to discharge a repairing standard enforcement order. Do members have any suggestions on how the committee should deal with the petition? It seems strange that the landlord should not have the responsibility in such instances.

Nanette Milne: There does not seem to be any support from either the Government or the private rented housing panel for what the petitioner suggests. I am no expert on the matter, but they seem to think that the current legislation is sufficient and that the existing provisions are comparable to the powers and responsibilities of other tribunals in law. If that is the case, I do not think that we can take the matter any further, and I suggest that we close the petition.

Bill Butler: I tend to agree with Nanette Milne. I do not think that we can have any further positive input with regard to the petition, so we have no option but to close it.

Nigel Don: I quite agree. I found the comments from the president of the private rented housing panel, Isabel Montgomery, to be among the clearest two pages that I have read in a long time. Her comments were extremely helpful.

The Deputy Convener: It seems unfair that the law is as it is. However, is it being suggested that we close the petition?

Members: Yes.

Robert the Bruce's Castle Gardens (PE1209)

The Deputy Convener: PE1209, from A J Morton, on behalf of the secret history project, calls on the Scottish Parliament to urge the Scottish Government to take all necessary action to protect Robert the Bruce's castle gardens in Ayrshire.

Robin Harper: The National Trust for Scotland, the West of Scotland Archaeology Service and Historic Scotland do not consider the site that is referred to in the petition to be of historical or archaeological significance. The petitioner has other avenues to pursue regarding the concerns that he has raised in the petition. On those grounds, we can close the petition.

John Wilson: I suggest that we do not close the petition, on the ground that the petitioner has submitted a significant piece of work arguing that the site is of historical and archaeological interest. I would like the committee to forward the information that the petitioner has provided to the organisations involved—the West of Scotland Archaeology Service, Historic Scotland and the National Trust for Scotland—and to ask them to comment on it.

I am aware that the petitioner intends to produce a book on the subject, and I would like us not to lose sight of the possible historical and archaeological significance of the site. The organisations that are vested with the powers to protect such sites should be fully aware of their responsibilities. On that basis, I ask the committee to consider not closing the petition and to submit the further paperwork to those organisations to elicit their views.

Bill Butler: Surely the petitioner can submit that information to those organisations. I am not completely against the committee acting as a conduit in this instance, but if we are going to agree to act as a means of transmitting that further information, it should be one more shy, but no more. It would not be appropriate for the matter to proceed further. I think that John Wilson is saying that we should have one more attempt—it should be one more, but no more. On that basis, and as I do not wish there to be a division at the Public Petitions Committee, I will agree to what John Wilson has suggested. However, if the organisations concerned say that there is no substance to the matter, or if they otherwise disagree, we should really take that as *finis*.

The Deputy Convener: But we have a suggestion from Mr Harper that we close the petition.

Robin Harper: There appears to be a majority in favour of giving the petition one more shot. For the petitioner's sake, I point out the words of comfort in the submission from the West of Scotland Archaeology Service that the site already has protection against development, because all the area

"would require to be archaeologically tested at any prospective developer's expense, should there ever be a future planning application for the area."

If a planning application were made, an in-depth archaeological survey would have to be undertaken before the development could proceed.

I bow to the committee's view.

The Deputy Convener: You are happy to go along with the committee's view.

Robin Harper: One more time.

The Deputy Convener: Thank you.

Delivery Charges (Highlands) (PE1211)

The Deputy Convener: PE1211, from Chris Ferne, calls on the Scottish Parliament to urge the Scottish Government to investigate whether economic, business and social development is being constrained by the charges that are levied by some courier companies that deliver to areas of Scotland such as the Highlands and Islands.

The issue is topical these days. Do members have comments? The charge by courier companies for delivering to the islands is not minimal but substantial and affects my constituency. As everybody knows, the island of Skye was once a complete island. We now have a bridge to Skye and free access for everybody, yet courier companies still charge an excessive supplement to deliver there. The same charges are made for Orkney and Shetland, although they are further offshore, and for the Western Isles. The issue is important.

Robin Harper: I understand from the evidence to us that a free market operates. People have a choice.

Nanette Milne: I am not sure whether we are in a position to take the petition forward. As Robin Harper says, a free market operates. Private couriers are not licensed by the postal regulator and delivery charges are set in an open market. I am not sure whether we have a locus to progress the issue.

Bill Butler: Far be it from me to defend the free market, but I think that the evidence shows that several companies deliver to the Highlands and Islands at the same rate as applies to the rest of the country. We have no evidence to suggest that the charges are having a significant detrimental impact on economic, business or social development in the area. Given that we have no evidence on which to base continued consideration of the petition, we have no option but to close it. We have nothing with which to work to develop the issue, so we should close the petition.

The Deputy Convener: Is that the committee's view?

Members indicated agreement.

The Deputy Convener: We will close the petition.

Right of Appeal (PE1214)

The Deputy Convener: PE1214, from Mr Emiko Okoturo, calls on the Scottish Parliament to urge the Scottish Government to take all necessary action to remove the requirement that an appellant must require two Scottish counsel to sign the appellant's petition before it can be presented to the appeals committee of the House of Lords, as that is contrary to article 6 of the European convention on human rights. Do members have suggestions on how to deal with the petition?

Bill Butler: It is not in our power to achieve what the petitioner wants. As far as I am aware, the procedures of the Appellate Committee of the House of Lords are outwith the Scottish Government's devolved competence. That is that.

My information is that the Scottish Government will not make any representations on the issue, so I think that we have no choice but to close the petition. If we did anything else, we would be pretending to have a locus where we do not. That is the top and bottom of it.

Nigel Don: I agree with Bill Butler. However, there is a minor detail that the petitioner would like us at least to air. He reminds us that, within the court system, he is able to represent himself at first instance, on appeal in Scotland and before the House of Lords. There is the small matter of security for costs but, in principle, he could do all of that at no cost. I think that he is making the point that, if he were a person of reasonable means, he would have to pay two Scottish counsel to certify that a case should be taken to the House of Lords. That is the requirement that he believes to be inconsistent with the European convention on human rights—essentially, he is asserting that certification should be provided free, because he cannot do it himself.

It is entirely beyond us to comment on whether it is right for the House of Lords to require that petitions be signed by two Scottish counsel as a precursor to their being presented; that seems reasonable to me, but my opinion is irrelevant. The petitioner's point is that, if someone is very rich, securing the signatures of two counsel is not a problem. If they are very poor, the Scottish Legal Aid Board should pay, but if they are a person of reasonable means, this is the one part of the process for which they must pay. The petitioner probably has a point when he suggests that that is not entirely right. However, the issue will arise so rarely that I do not think that we should push it, to be perfectly honest.

Bill Butler: I do not know whether the procedure is ECHR compliant or whether it goes against article 6 of the convention. However—with respect to the petitioner—that is neither here nor there for this committee, which must work within the devolved settlement. The Scottish Government has told us that it does not intend to make representations in respect of this aspect of the devolved settlement, so we have no locus. We must be honest with the petitioner and say that we need to close the petition.

The Deputy Convener: Is that agreed?

Members indicated agreement.

Bus Services (Rural Areas) (PE1215)

The Deputy Convener: PE1215, from Miss Janie Orr, calls on the Scottish Parliament to urge the Scottish Government to improve the frequency of, access to and routes of buses in rural areas, in order to increase mobility and improve local communities' access to social, entertainment and education outlets. How would members like to deal with the petition?

Robin Harper: In its replies so far, the Government has stressed the fact that the issue to which the petition relates is a local government responsibility. However, the petition was submitted to us in good faith and raises a lot of questions to which we do not have answers.

We should write to the Scottish Government and try to get some answers. What is its response, other than simply to reiterate councils' responsibilities under the concordat, to Scottish Borders Council's claim that the level of funding is insufficient to ensure adequate provision of bus services in rural areas? It is fair for us to ask that question. Will the Government provide any ring-fenced funding? What is its response to the analysis by the Community Transport Association that there is

"no reason to be optimistic that the problems which this Petition seeks to address will be resolved in the near future across Scotland"?

Why, in particular, do only two of the 45 national indicators under the concordat refer to transport? Is the Government concerned that only five local authorities have included community-based transport services in their single outcome agreements? How does that square with the Government's efforts to encourage local authorities and bus operators to work in partnership to improve bus services? Are local authorities cutting subsidised local transport services? If so, how many, and what reasons have they given for doing so? A few more questions need to be asked. The petition was brought to us when we went to the Borders, and it is very important for the young people who presented it to see that we are prepared to take it a lot further.

16:30

The Deputy Convener: Thank you for that. Are there any more suggestions?

Nanette Milne: I agree with Robin Harper that we should keep the petition open. We should put a few of his questions to COSLA as well. For example, are local authorities being given enough funding under the concordat to be able to include local and rural transport services in their single outcome agreements? How many local authorities are already cutting subsidised local transport services, and why are they doing so? We have anecdotal evidence that that is happening in various places. Perhaps we should seek a response to the Community Transport Association's analysis that there is

"no reason to be optimistic that the problems ... will be solved in the near future".

Bill Butler: I agree with Nanette Milne and Robin Harper. Those questions have to be asked of the Scottish Government and COSLA, and we should ask them.

The Deputy Convener: Is that agreed?

John Wilson: I support what has been said. We must also ask the Government how its public transport policies on out-of-hours services can encourage recreational and sporting activities in communities throughout Scotland if people cannot get access to public or other appropriate transport to get them to and from those activities. That issue has not been raised so far.

Robin Harper: I recall that some of the early transport legislation that was introduced in the first session of the Parliament stressed that quality partnerships should be a way forward. It would be useful to know how many councils are actually using or pursuing that idea in order to ensure the continued provision of good-quality rural and urban bus services.

Bill Butler: I think that the answer will be "none", because there are no such agreements. However, it is worth asking the question to re-emphasise the need to reregulate bus services. That might be a good idea. I give some free advertising to my colleague Charlie Gordon's member's bill, which supports the policy position held by the Scottish National Party at the 2007 Scottish general election. Surprisingly, that seems to have fallen off the Government's radar; I hope that we can put it back on.

I hope that my comments have been helpful, convener.

The Deputy Convener: Okay. We are agreed that we will raise the issue again with the Scottish Government and COSLA.

Members indicated agreement.

Enterprise Education (PE1216)

The Deputy Convener: PE1216, from secondary 3 modern studies pupils at Berwickshire high school, calls on the Scottish Parliament to urge the Scottish Government to consider the need for new legislation to improve funding to promote and support enterprise education in schools. Do members have any suggestions on how the committee should deal with the petition?

Robin Harper: I have pursued for almost 10 years a view that the Government should provide more funding for outdoor education. With the advent of the curriculum for excellence, I would like outdoor education to be included, but not to the exclusion of any of the other things that should be in the curriculum for excellence, such as art, music and enterprise education. The Educational Institute of Scotland, which is keen to promote the curriculum for excellence, will be worried by the idea of the Government providing specific and exclusive extra funding for enterprise education at the cost of all the other things that should be within the curriculum.

Although we should find a way of saying that we see enterprise education as forming an important part of a broad curriculum for excellence, it should be left to individual schools and authorities to decide how they balance the development of the curriculum. For the committee to recommend or pass on a petition that calls for specific reference to one part of that curriculum might not be appropriate. I should declare an interest at this point because I am still a member of the EIS, although I am expressing my own view in addition to the view expressed in the EIS response.

John Wilson: We should continue with the petition. In light of the current economic situation and the possibility that some businesses that currently provide funding to local schools for enterprise education and development might find it more difficult to provide that funding, we should ask the Government whether it will find additional funding to allow enterprise education to continue and make up the shortfall due to the downturn in donations and contributions from small businesses. We should also ask the Government to take on board that such education is an essential part of the curriculum given the national demands that are being made to develop enterprising citizens.

Nanette Milne: I agree that enterprise education is extremely important. I am sure that we have all seen it happening in schools and seen the benefits that pupils gain from it. It is also important, even in this climate, to encourage local businesses and employers to continue with funding. It is extremely important to have that voluntary interaction between companies and pupils. I take the point

that, if things are really bad in the economy, there should be Government help with funding so that such education is not lost but, by and large, I would like businesses to continue to provide much of the funding.

Bill Butler: I declare an interest, both as a member of the Co-operative Party and as a member of the EIS. Enterprise education is a good thing, especially if it includes co-operative enterprise education. Co-operative enterprises can add to the education of young people and the realisation that such enterprises have a part to play in the enterprise culture.

I think that we should write to the Scottish Government to ask whether it will ring fence some moneys for enterprise education beyond 2011. We cannot possibly predict the complexion of the Government beyond 2011 and we cannot bind a future Government, but I think that the current Government could helpfully commit, in principle, to ring fencing the funding for enterprise education.

The Deputy Convener: And to supporting the councils.

Bill Butler: Yes, indeed. With those caveats, I think that we should write to the Scottish Government in those terms.

Marlyn Glen: I declare an interest as another member of the EIS.

I agree with Robin Harper. All four capacities of the curriculum for excellence are important. I was not aware of it before, and I was surprised to learn that there is a specific grant for determined to succeed. I believe that it is the money for determined to succeed that is ring fenced, rather than the funding for enterprise education per se. I agree that we should write to the Government to ask whether it is intended that ring fencing will continue beyond 2011, although I believe that it is going to be phased out. Let us keep the petition open and write to ask what the plans are for the funding beyond 2011.

The Deputy Convener: We will ask about the commitment for the future.

Robin Harper: Could I have one last word on this? I would not like to give the impression that I am not impressed by the enterprise education that I have seen.

Marlyn Glen: Absolutely.

Robin Harper: We saw some wonderful work at Berwickshire high school, where the young people were clearly enthused by, thoroughly engaged in and benefiting from what they were doing. Such education changes lives. I have also seen work in West Lothian and Edinburgh that is of a high standard and which is very beneficial to the young people concerned.

Nevertheless, I would love to see the ring fencing of funding extended to outdoor education, music, art, drama and the other creative arts. I just wanted to express that view before we send the petition on for further consideration by the Government.

The Deputy Convener: We will contact the Government on those issues.

Licensing Reform (PE1217)

The Deputy Convener: Members will be glad to hear that we have come to the last petition on our agenda, although there is some domestic stuff to deal with after that. The last current petition is PE1217, from Mr Christopher Walker, calling on the Scottish Parliament to urge the Scottish Government to revise its proposal to introduce new licensing regulations under its proposed criminal justice and licensing bill, in order to protect local tourism and businesses in rural areas from unnecessary regulation and charges.

Do members have any comments on the petition?

Nanette Milne: I would not say that the Government is complacent in its response, but it is much more optimistic than the people to whom we have spoken—tourism operators and others who sell very small amounts of alcohol. We should keep the petition open and write to the Government to ask how many small businesses it thinks will no longer be able to sell alcohol because of the fees that will be imposed by the proposed bill and how many of them might close down as a consequence. I think that there might be quite a lot. That is the main question that I would like to get answered.

Nigel Don: The other question that I would like to put to the Government arises from the helpful letter that we have just received from Alex Fergusson, which highlights a particular case. As I read the committee's papers, I was hoping that someone would produce an example, and it arrived appropriately. It concerns a gentleman who simply wanted to add two and a half hours to his weekend trading but found that he was going to be charged £400 for the privilege. It is not so long ago that I sat on a licensing board. Although it seems perfectly reasonable, in principle, to ensure that the licensing board's costs are covered by those who get licences, and although a sliding scale seems to be perfectly reasonable, I have to say that there does not seem to be anything reasonable about that kind of fee for that kind of operating plan. If the local licensing board feels that that is what it must charge because of the way in which the rules are written, we should write to the Government citing that example and asking it to reconsider the rules. Such a charge does not

seem reasonable to me, and I expect that not many people would find it reasonable.

The Deputy Convener: You wish to ask for clarification of the minor variation clause.

Nigel Don: Yes. My instinct is that what the gentleman was suggesting is minor at the very least—it is almost *de minimis*—yet, suddenly, there is a £400 fee. That seems totally unreasonable. I have no idea what the rules say, but they need to be reconsidered urgently.

The Deputy Convener: Okay. Is everybody happy with that?

Members *indicated agreement.*

The Deputy Convener: That concludes our scrutiny of current petitions.

New Petitions (Notification)

16:45

The Deputy Convener: Under item 2, the committee is asked to note the new petitions that have been lodged since our previous meeting, which will be timetabled to come before us for consideration at the earliest opportunity. Is the committee content to note the petitions?

Members *indicated agreement.*

The Deputy Convener: That concludes the meeting, but I invite members to stay behind for a few minutes to discuss some domestic issues.

Meeting closed at 16:46.

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