



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 4 May 2010

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PUBLIC PETITIONS COMMITTEE

7th Meeting 2010, Session 3

CONVENER

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Rhona Brankin (Midlothian) (Lab)

Bill Butler (Glasgow Anniesland) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Robin Harper (Lothians) (Green)

*Anne McLaughlin (Glasgow) (SNP)

*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)

Nicol Stephen (Aberdeen South) (LD)

Bill Wilson (West of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Lloyd Austin (RSPB Scotland)

Christine Grahame (South of Scotland) (SNP)

Stuart Housden (RSPB Scotland)

Syed Ali Naqvi

Duncan Orr-Ewing (RSPB Scotland)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 4 May 2010

[The Convener *opened the meeting at 14:00*]

New Petitions

Birds of Prey (Illegal Killing) (PE1315)

The Convener (Mr Frank McAveety): Good afternoon, everyone. I welcome members of the public and others to the seventh meeting this year of the Scottish Parliament Public Petitions Committee. We have received two apologies. There is a standing apology from the deputy convener, John Farquhar Munro, due to ill health, and an apology from Bill Butler MSP, because of a hospital commitment. All mobile phones and electronic devices should be switched off.

There are a number of modern studies teachers in the public gallery. I welcome them. They will see how the committee structure in the Parliament works, and I hope that that will encourage participation. The committee has received fantastic responses when it has gone around the country, particularly from high school students, who have been supported by modern studies teachers. Those teachers have been good at promoting awareness of our pretty radical programme of public participation. Good luck to the teachers in the gallery if they are in a school at the moment, or if they hope to be in a school in the near future.

The first new petition that we will consider is PE1315, from RSPB Scotland, which calls on the Parliament to urge the Government to increase its efforts to stop the illegal killing of birds of prey. I welcome to the meeting Stuart Housden, Lloyd Austin and Duncan Orr-Ewing, and invite one of them to make some opening comments.

Stuart Housden (RSPB Scotland): Thank you, convener. It is good of the committee to listen to us. I will crack on, as members obviously have a busy schedule today.

The petition, which was lodged on behalf of our 87,000 members in Scotland, celebrates Scotland's incredible heritage of birds of prey and calls for increased efforts to end the illegal killing of them. We draw to members' attention that we have also received 22,000 pledges that call for an end to such illegal killing.

Our petition suggests a number of actions that will help to address the problem that we have raised. As members know, birds of prey are rightly

protected by the full force of the law, but the illegal killing of those wonderful birds remains a persistent issue. Despite great efforts that have been made by many people, the problem continues throughout Scotland. Some species are threatened and some are not recovering as they otherwise would have done, because of the problem. That is not only bad in itself; it is bad for the environment and detrimental to Scotland's tourism industry and our reputation across the world.

Since we lodged the petition, two pertinent studies have been published that highlight the scale of the issue. The first study was on the poisoning of red kites that were the subject of a reintroduction programme in Scotland and England, in the scientific journal *Biological Conservation*. The study compared two release areas—one in the north of Scotland around the Black Isle and one in the Chilterns in England. An identical number of birds was reintroduced into those areas at exactly the same time, starting in 1989. The Chilterns population is now more than 320 pairs, whereas the population around the Black Isle is confined to around 40 to 50 pairs and is not increasing. There is a difference between the two populations because the population around Inverness has been subject to illegal persecution, particularly poisoning, whereas the population in the Chilterns has been largely unmolested. Illegal activity has had a direct effect around the Black Isle. That shows the serious impact that it can have.

In late March, the Minister for Environment, Roseanna Cunningham, launched maps of illegal poisoning in Scotland. Science and Advice for Scottish Agriculture, which is the key Government agency, has verified those maps. They confirm that poisoning is concentrated in upland areas, where driven grouse moor management accounts for the predominant land use. I regret to say that 2009 was among the worst years on record for the reporting of illegal cases to us. The use of illegal poisons remains a serious and widespread problem, and it is having a big impact on our bird of prey species in Scotland. Our petition sets out a range of things that we think could make enforcement more effective.

Birds of prey are magnificent, enjoy wide public support and are something special in our landscape. By the early 20th century, many were extinct or close to extinct in Scotland. Some, often aided by conservation activities by bodies such as the RSPB, have since recovered, which is welcome, but the recovery is partial, patchy and jeopardised by the illegal killing that I have described. Scots and tourists alike value the birds, which add and contribute to the rural economy, especially in remote areas such as Mull, the Black

Isle and Dumfries and Galloway, to name but three, where we have programmes running.

The laws protecting birds of prey are pretty good and were recently improved, yet illegal killing on a serious scale persists, largely because the investigation and prosecuting of such crimes are difficult. There is a lack of specialist resources for those who are responsible for enforcement; our petition asks that more be done in that area. In 2007, a thematic review of wildlife crime, which was published here in Scotland and is an excellent document—I hope that the clerk can refer the committee to it—made a series of recommendations for better enforcement of the laws protecting wildlife here in Scotland, but a number of those recommendations are yet to be implemented. We ask for that issue to be addressed.

Despite much good work by Government, the police, many responsible landowners and others who manage land across Scotland, much more needs to be done to address the problem. The full implementation of the recommendations of the thematic review is one of the matters that should be addressed with urgency. We will be delighted to answer any questions that the committee has.

The Convener: Thank you for being brief.

Nanette Milne (North East Scotland) (Con): I apologise for missing the first part of Stuart Housden's presentation. I am a member of the RSPB. My question relates to the prosecution of wildlife criminals. I am fortunate in that I come from the Grampian area, where there is a full-time wildlife and environmental crime officer. I have been out with that officer, who does a particularly good job. Two years ago, when I went out with him, that sort of provision was patchy in police forces in Scotland. Can you update us on the current situation?

Stuart Housden: We ask, and the thematic review recommended, that all police forces in Scotland have a specialist to deal with these matters. You are right to say that you have an excellent wildlife crime officer in your area. Duncan Orr-Ewing can advise the committee of the latest situation.

Duncan Orr-Ewing (RSPB Scotland): Four or five Scottish police forces have a full-time wildlife crime officer. As Stuart Housden said, that is imperative if we are to make progress on the issue. Dave MacKinnon is the wildlife crime officer in Grampian, which we regard as the model. Many forces have still to reach that standard. Northern Constabulary, for example, does not have a full-time wildlife crime officer. Given the amount of wildlife crime that occurs in the area and the importance of its bird of prey populations, that is an important issue to address.

Nanette Milne: There has been some progress, but I have read in the papers about the lack of such an officer in Highland. I am always pleased to hear the praises of my neck of the woods being sung, but I know that provision there is good. I am pleased that you are looking to have that model rolled out across Scotland.

Anne McLaughlin (Glasgow) (SNP): You will be aware that, at our previous meeting, we considered a petition

"Calling on the Scottish Parliament to urge the Scottish Government to amend relevant legislation to remove the protection given to sea eagles and ... ravens",

among other predators. My instinct is not to support that and to support what you call for. In your recommendations, you ask for

"a clear and unequivocal commitment by Scottish Ministers not to weaken the legal protection for birds of prey".

I assume that you are referring there to PE1309, among other things.

As a committee, we agreed to write to various organisations. We will have written to you—or we will be writing to you. I have a lot of sympathy with the petitioner and people who are losing livestock to birds of prey. I understand that you will write back to us, but it would be interesting to hear your thoughts on how we could overcome that problem at the same time as protecting the bird population.

Stuart Housden: The first thing to say is that the committee has written to us and we will respond in some detail. In a nutshell, we need to agree the evidence base in order to discuss the problem. In the past 12 months, the Government has put more than £100,000 into investigating the claims that have been made. The evidence that has come out of that thus far seems to indicate that if there are losses, the number is very low indeed. There is a gap between the claims that are being made and the evidence from the independent scientific study. In order to make progress, the Government needs to ground truth that to work out the extent of the problem, so that we can come up with bespoke solutions that will help.

I refer members to the situation that arose on Mull about 10 years ago, when similar claims were made. At that time, we had looked at what was happening in Norway before we brought the birds across to Scotland to reintroduce them. There was very little evidence of any damage to livestock, so we were quite sceptical about the claims. However, the study by the Centre for Ecology and Hydrology, a Government agency, showed that a small number of viable live lambs was being taken, particularly in years when there had been a bad winter and the lambs were quite light and had been on the hill. We shifted our position, because the evidence showed that a small number—

although not the number that had been claimed—were being taken. That helped defuse the situation. Scottish Natural Heritage came up with a scheme whereby, in effect, the farmers or crofters on Mull are paid to facilitate the sea eagle programme, which involves quite a lot of monitoring by scientists on their farms. That has taken the heat out of the situation.

We have a model, which I hope that, with good will, we can begin to transpose into other areas, where necessary. Our feeling is that we have to look closely at the claims and the way that sheep farming is conducted in the area, because it is difficult ground. There are undoubtedly losses, but how many live viable lambs are being lost to eagles is still in dispute. We have to get behind that and help farmers in difficult conditions address the stocking rates and the husbandry, from cradle to grave, in their systems, rather than look at one particular problem in isolation. In short, I hope that you understand that we are sympathetic to the petition, but we feel that the right thing to do is base concerns on an agreed understanding of the scientific evidence, so that we can come up with appropriate and sympathetic solutions.

Anne McLaughlin: I think that, instinctively, I support your position. I understand that the actual effects are being studied, but the anecdotal evidence from individuals seems to be that their businesses were being crippled. For some of the people involved, their businesses have been in their family for generations. It is important that we work together and take cognisance of the problems that they are facing, even if they might be exaggerated in some quarters. I will read your response with interest. Previously, somebody talked about feeding birds during bad winter seasons, so that they will not require to take lambs. That seems a bit of a simplistic solution, but it will be interesting to read your response.

14:15

Stuart Housden: I agree. I want to reassure you that we are not blind to complaints and that we are not saying that there is no evidence of any of this and so it cannot be shown to be having an impact. Sheep farmers and crofters in the area lead a hard life, and we need to look at the issue sympathetically and ensure that we understand their difficulties. Obviously, there is no doubt about some of the claims; however, given the very short window in which lambs are vulnerable to eagles—they simply outgrow the eagles' capacity to take them—the number of viable live lambs that are taken must be smaller. As these birds are carrion feeders and have evolved to clean up dead animals, deer grallochs and so on, we can sometimes use that to change behaviour and

ensure that instead of going off hunting they can take free food. It is a bit like a bird table in one's garden transposed to the countryside. We will respond sympathetically and in detail and are happy to provide more evidence as required.

Robin Harper (Lothians) (Green): I, too, am happy to acknowledge my membership of the RSPB.

A few years back, I remember being shocked—I was going to say impressed, but that is probably not the right word—by a list of birds and animals that had been shot over a weekend at a Victorian shooting lodge, which included several hundred brace of game birds, deer, and at least 12 birds of prey, as well as three eagles. The Victorian love of Scotland was certainly reflected in the mass slaughter of Scottish wildlife, and I wonder whether some of those attitudes have hung around and are still with us today.

As far as I am aware, in other European countries very few problems seem to arise among farming interests, hunting interests—hunting goes on in all northern European countries—and environmental interests. Are there any lessons that we can learn from Norway, Sweden and Finland about looking after wildlife?

Stuart Housden: That is a very pertinent question. Game management in Scotland evolved around a fairly intensive management of land specifically to increase the numbers of grouse, deer or whatever the target species was, which involved employing a lot of people, heavy management and the eradication of any competitor with the gun. As a result, the game records from the period are infamous, if I can put it that way, with hundreds of birds of prey, wild cats and just about every other species that was unwanted in the situation accounted for. I find it quite extraordinary; if we think about how Scotland today might support even some of the numbers of the things that were being killed then, we can see how different the landscape at the time must have been.

The approach in Scotland is different. Most areas in northern Europe do not have such intensive game rearing and, as a consequence, systems are sustainable with lower bags but a more natural land management approach. It also appears that many top predators, whether they be birds or other animals, live more in harmony with the land use pursued in those countries.

Of course, that implies that people in Scotland do not take such an approach when in fact there are many good and very progressive estates in Scotland that understand the issue and will accept lower bags in order to pursue multiple land use objectives, including the conservation of wildlife. Our task is not only to prosecute the bad boys, if I

can put it like that, but to shift practice to make it sustainable and to ensure that people have enlightened attitudes towards top predators.

The problem is so long lasting that I remember speaking to the late Donald Dewar about it. He described what we told him as a national disgrace. Lord Sewel made some comments in support of activities that we did in the 1990s. He had just returned from a holiday on the continent where he had seen large birds of prey quite commonly and, when he returned home, he looked for them but did not see them. That is all part and parcel of the same issue.

John Wilson (Central Scotland) (SNP): I, too, confess my membership of the RSPB as well as the Scottish Wildlife Trust. It is important to put it on record that some of us in the Parliament genuinely believe that wildlife has a place within our society and should not be persecuted.

As my colleague Anne McLaughlin mentioned, the timing of the petition is pertinent given the fact that, two weeks ago, we considered a petition that asked the Parliament to consider extending licences to deal with sea eagles. The petition referred to sea eagles and other carrion birds, but the person who made the supplementary oral submission started talking about golden eagles as well. It is quite worrying that, at the same time as we are trying to protect and reintroduce birds of prey and develop their populations within Scotland, we have people who, because of the accusations that have been made against certain birds of prey, want licences to kill and destroy them.

In your submission in support of your petition, you refer to Scottish Natural Heritage's report "A conservation framework for golden eagles: implications for their conservation and management in Scotland" and say that a number of birds of prey have been killed by poisoning and trapping. The report also indicates that the number of birds that fall victim to illegal trapping, shooting and poisoning and nest destruction may be underestimated. Will you hazard a guess, based on the figures that you gave in connection with the reintroduction of red kites in two parts of the United Kingdom, about the real figures for the killing of birds of prey in Scotland?

The Convener: There is a wee bit of a tinny sound. I do not know whether it is John Wilson's microphone or whether I am reaching a certain age.

Stuart Housden: We must recognise that the discovery of a poisoned golden eagle is a matter of chance, large though the bird is. If it was lying on the floor in this room, we could all see it but, if it was in 2ft or 3ft-deep heather on a steep scree slope 100m away from a footpath or track on

which we were working, we would not see it. Hill walkers, shepherds, gamekeepers and farm workers sometimes report dead birds, but it is difficult to find them just by chance.

One or two cases have really brought that home to us. A satellite tag was still working on a dead golden eagle but it took us three days to find the bird even though the transmitter was telling us broadly where it was within a radius of about 100m. Even when people are out searching for a dead bird, it can be extremely difficult. The terrain is difficult as we all know.

The birds that are found undoubtedly provide an underestimate of the total. The people who kill them know that it is illegal, so they take active steps to hide what happens. They might recover birds and dispose of them themselves. The poisoned baits are put in places that are not easily seen. Having said that, we occasionally come across incidents in which there are baits all over the place that prove to be poisoned. In those circumstances, the poisoners have clearly taken no care at all to hide the bait or even to protect other animals or children.

The way to hazard a guess on the real number is to examine the biological impact at the population level. There are about 650 to 700 suitable territories for golden eagles in Scotland. If nobody was molesting the birds, interfering with them, disturbing them or doing something to them, we would assume that most of those territories would be occupied. The birds might not nest successfully every year—that is the norm—but there would be some birds in those territories.

Now, about 400 to 420 of those territories are occupied. There is an increasing east-west divide. In the west, most of the territories are occupied, whereas in the east and central Highlands and the Grampians, the number of territories that are occupied is diminishing. Scottish Natural Heritage has done a detailed study, incorporating 10 years of data; in effect, it says that our population in Scotland is vulnerable, because we are not producing enough young birds to keep the existing territories occupied and too many birds are dying. Poisoning and other persecution appears to be the principal cause.

Duncan Orr-Ewing has examined the situation in some detail and might have things to add.

Duncan Orr-Ewing: I have some comments about red kites. Since reintroductions began in 1989, about 60 birds have been found, confirmed as poisoned. To return to Stuart Housden's point, we estimated through a piece of work that was done a few years ago that 37 per cent of the north of Scotland red kite population had been illegally poisoned. That does not include birds that had been shot or subjected to other forms of illegal

killing. That has an effect on the population level of red kites, as can be seen from a stark comparison between the figures for the north of Scotland and the south of England.

John Wilson: Your submission admits that Scotland has some of the best wildlife crime legislation. The evidence that we have heard today shows that we must examine that legislation very carefully to ensure that it is being enforced. There is no point in having legislation in place if the sort of incidents that the witnesses have described today are still happening and if these birds continue to be persecuted.

Rhona Brankin (Midlothian) (Lab): I apologise for my lateness. I declare an interest as a member of the RSPB—a very high proportion of the population are members.

The Convener: A few of us are not—the witnesses might still get a hard time in a few minutes.

Rhona Brankin: If only as many people were members of political parties.

I am interested in the relationship between managed moorland and estates and the issue that we are discussing. It is a difficult issue, and people must go on the information that they have before them, but my understanding is that certain estates have come up time and again in relation to this issue, whereas other estates are known to have good practice. It would be useful for the committee to have information on that; I do not know whether you have that information with you or whether you could furnish us with it.

I am sorry that I missed your initial input—this might have been referred to—but it would also be useful for the committee to have some examples of estates on which there is acknowledged good practice in conservation management on estates.

How is the partnership for action against wildlife crime in Scotland resourced? Is its work adequately resourced? What has happened to its resourcing in recent years? Is there an issue for the committee to consider with regard to how the partnership might be strengthened?

Again, this might already have been covered, but where is your thinking on future legislation or possible amendments to nature conservation provisions?

Finally, when I was out a couple of weekends ago, I saw a trap with a black bird in it, probably a raven. Is that sort of thing legal or common?

I think that those are all my questions for now.

14:30

Stuart Housden: I will race through some quick answers, but we can provide detailed evidence, including a mapped scale, to try to answer your questions. To give you a fuller answer now would take me more time than I expect the convener—

Rhona Brankin: It would be interesting to get the names of the estates and their owners, too.

Stuart Housden: We must not leave the committee with the impression that all sporting estates are badly managed and that the people who own and manage them do not care about wildlife, because nothing could be further from the truth. However, there is a significant minority of such estates where problems keep cropping up. We can provide the committee with data from SASA maps and our own maps. From there, you will see that if we could tackle the top 10 worst places we would solve a significant proportion of the problem. I am happy to share those data with you.

Rhona Brankin mentioned that she saw a trap. It sounds to me like a pro-cage trap. It is a legal and legitimate trap, but the way in which it is operated, how often it is checked and the conditions in which it is kept and managed are critical and subject to legislation that this Parliament has made to tighten considerably the controls on such traps. There are cases of such traps being abused. If the funnels at the top are wide, even eagles can get in and I have seen pictures of that. It is easy for the eagles to be killed or die inside the trap if the traps are not checked regularly. The issue is how the traps are managed. Part of the antidote to the illegal activity that we described—illegal traps and evidence of poisoning—is that we have to give land managers legitimate and legal traps to use, provided that they are managed properly and that their operation is humane and as permitted by the law.

I will hand over to Duncan Orr-Ewing, who represents the RSPB in PAWS.

Duncan Orr-Ewing: As you know, PAWS has developed and the Parliament was instrumental in energising it. The current cabinet secretary has taken a lead on PAWS and good progress is being made. However, we might like to see a closer focus on the implementation of the 24 recommendations of the thematic review of wildlife crime and in particular, the securing of a full-time wildlife crime officer in every police force, perhaps using the Grampian model.

Another recommendation is that vicarious liability should be looked at to make landowners more responsible for the actions of their employees so that they can be held to account if somebody behaves in a criminal way and kills wildlife illegally. That is worth further exploration. Although this is not a thematic review

recommendation, the issue of cross-compliance has had some success leading on from Rhona Brankin's time as minister. We would like a focus on conditions being attached to receipt of public payments for agriculture and forestry and ensuring that they are conditional on good standards and obeying wildlife laws. Some landowners have been penalised where wildlife crime has occurred on their land, which we think is an effective deterrent. There might be other areas of public policy in which similar sanctions could be investigated and applied.

Stuart Housden: Lloyd Austin works with legislation and might want to comment.

Lloyd Austin (RSPB Scotland): Rhona Brankin asked about future amendments to legislation. If the liability point that Duncan Orr-Ewing mentioned were to be developed, the wildlife and natural environment bill that the Government will introduce probably before the summer—it will be dealt with by the Rural Affairs and Environment Committee after the summer recess—would offer the ideal opportunity for that to be taken forward. However, as was mentioned earlier, the legislation is generally pretty good; it is a question of ensuring implementation through adequate policing and a well-resourced and well-trained fiscal service.

The Convener: Nigel Don has a final question and then we will pull it together.

Nigel Don (North East Scotland) (SNP): Thank you for your scientifically-based comments. I am not the only member of the committee who likes scientifically-based numbers; I just wish that we got more of them. I encourage you to stick with that approach.

I, too, represent the Grampian region. It was suggested to me by someone who is concerned about wildlife crime that those found guilty of it might find their gun licences being taken away and that, if that were possible, people who regard their gun licence as a passport to a job might be a little bit more careful about how they did that job. Guns are a reserved issue, and the legislation is clear that the only reason why a licence holder will have their gun licence revoked is when they represent a risk to others—not to wildlife. I have had that checked, and I have a letter from the Association of Chief Police Officers in Scotland to that effect. Nonetheless, will you comment on whether gun licence revocation for wildlife crime would be an appropriate part of the jigsaw?

Stuart Housden: I will ask Duncan Orr-Ewing to answer that. To reassure you, we have to be an evidence-based organisation. We would address the wrong solution to the wrong problem if we did not concentrate on evidence. I am 100 per cent with you, and I assure you that we try to base

everything that we do on a sound understanding of the science. Indeed, we spend nearly £2 million a year in Scotland contributing to that science base.

Duncan Orr-Ewing: On the firearms question, I believe that there are cases in Scotland in which people who hold a firearms certificate and have subsequently been convicted of wildlife crime have had their certificate removed by the chief constable concerned. However, you will appreciate that when wildlife crime cases are discovered, police searches can uncover other crimes. Sometimes it is hard to disaggregate whether the firearms certificate has been removed on account of the wildlife crime case or because of other crimes that have been identified at the time.

Nigel Don: As a matter of law, gun licences will not be removed because of wildlife crime. That is quite unambiguous, as the lawyers understand it. To come back to my question, if that were one of the sanctions provided by the law, would it reduce wildlife crime?

Duncan Orr-Ewing: It would be a helpful sanction. We are suggesting that you should consider the range of public policy mechanisms, of which that is one, to see which would act as a deterrent.

Rhona Brankin: In my constituency, a lot of concern has been raised about the quality of some research on raptors and predation on pigeons. Has that research reported? If so, what is the outcome?

Duncan Orr-Ewing: The research has concluded. It was conducted by Scottish Natural Heritage and the Scottish Homing Union, and the results were independently reviewed by the British Trust for Ornithology. The headline outcome is that the research was inconclusive. My understanding is that the Scottish Government has taken the view that it can make no recommendation on licence control for example around the removal of sparrowhawks around pigeon lofts to resolve the problem. Indeed, of the six or seven sparrowhawks removed in the study, at least one has returned to the loft from which it was removed. There were quite a lot of difficulties in trapping the birds, and I understand that the research is not being taken forward.

The Convener: We have had an extensive series of exchanges. There are one or two issues on which it would be helpful to have a more detailed response. The committee is in a difficult situation, in that it will have to deal with petitions that are at opposite ends of the spectrum. It will be important to get enough information to help us decide how to approach them. I invite members to suggest how we should deal with this petition.

Nanette Milne: I would like to follow up on my questions about wildlife crime officers. Perhaps we

should get the comments of the Scottish Police Federation and ACPOS on the petition, and find out their attitudes to rolling out the Grampian model, for instance. We should ask whether they would consider doing that and, if not, why not, particularly when there are areas in Highland where wildlife crime is a significant issue.

Robin Harper: We could write to the Government and ask what increased efforts it has made to stop the illegal killing of birds, what its response is to the recommendations of the Natural Justice review, as set out in the petition, what its response is to the actions suggested by the petitioners to stop the illegal killing of birds of prey and whether there are any other actions that it might bring forward that could be of interest to the petitioners.

Anne McLaughlin: We should ask the same questions of the Crown Office and Procurator Fiscal Service. With regard to Nigel Don's point, we should write to the UK Government to ask whether it would consider including legislating on the option to remove a gun licence from a licence holder not only if they are a danger to people but if they break the law that applies to wildlife.

Rhona Brankin: I would be interested to find out whether action has been taken through single farm payments where there have been abuses. We need to write to a range of interested parties to seek their views on the petition.

Nigel Don: As it was specifically mentioned, the Northern Constabulary might like a letter, too.

John Wilson: Given the issues that were raised two weeks ago about how farmers and others feel about birds of prey, we should also write to the Scottish Landowners Federation and NFU Scotland, to get their views on the issue. As well as writing to the Scottish Gamekeepers Association, other organisations need to be brought in. If we can write to those organisations as part of our consideration of the petition, we may get a fast response, which would enable us to take action on the recommendations in the report that has been referred to.

Robin Harper: A couple of other things occur to me. We could ask the Government to update us on training support for wildlife crime officers and whether any consideration has been given to training support on wildlife crime for the Procurator Fiscal Service. I know there is something of a lacuna with regard to marine transgressions and perhaps other environmental misdeeds.

The Convener: We have a series of things that we need to explore.

Mr Housden, the process is that we will make inquiries about the petition to all the relevant organisations and individuals. Their responses are

then brought back to us. As a petitioner, you may always communicate directly with the committee clerks. If you wish to furnish us with additional information or suggestions, we would be happy to receive those. Thank you for your time.

Shia Muslims (Community Centres) (PE1323)

14:45

The Convener: PE1323, by Syed Ali Naqvi, on behalf of the Scottish Shia Muslims, calls on the Scottish Parliament to urge the Scottish Government to encourage and facilitate the creation of community centres that are dedicated to Scottish Shia Muslims. Syed Ali Naqvi is here to give evidence and he is accompanied by Syed Shafaat Naqvi. I ask them to make opening remarks.

Syed Ali Naqvi: Honourable members of the committee, good afternoon. I thank you for providing us with an opportunity to represent an idea, a request and an appeal for a Shia community centre. According to an estimate, more than 10,000 Shia Muslims live in Scotland. However, unfortunately, they do not have a dedicated, purpose-built community centre that could fulfil the requirement of a modern community centre. As elaborated in the petition, such community centres would have diverse roles. They would provide an opportunity to promote moral values, education, harmony and peace. They would put forward the true picture of religion, which teaches justice, human rights, love and embracing people from diverse faiths and backgrounds, and which condemns any kind of violence.

The petition is not just a petition—we want to put across an idea to the Scottish Parliament. The petition promotes an idea of a community centre that has a much diversified role, as I said. A community centre would not be only for the usual religious practices and rituals; it should encourage and utilise the potential of the Shia Muslims who live in Scotland. The role of Government is to utilise the country's natural and human resources, which are precious assets of a nation. As a student of politics and social sciences, I suggest to the policy makers of the country, through the petition, that they should tap into that resource.

As a student of social sciences, I believe that an educated and aware nation is a developed nation. We have to enhance awareness and education by using such means. That could be done more effectively with a community centre that helps to achieve those social objectives. The idea can not only promote the nation, but facilitate in bridging the gaps between the various pockets of society. I assure members that, if we could develop a

community centre along those lines, it would not only facilitate the Scottish Shia Muslims, but be a role model for European and other countries. It would show how a Government can invest in people to have a long-term positive impact on the country and society.

I consider that the Scottish Shia Muslims are deprived in comparison with people from other religious schools of thought. Currently, the Shia Muslims have no community centre that can fulfil their requirements and needs. The Government should intervene with administrative and financial support to ensure that the community has such a platform. We hope that the Scottish Parliament will consider our request to take action in that regard.

Robin Harper: The briefing on the petition points out that the census does not tell us how many Shia Muslims there are, because no distinction is made between Shia and Sunni. Do you have a rough estimate of how many Shia Muslims there are in Edinburgh and Glasgow?

Syed Naqvi: We do not have a breakdown by city, but the overall statistics for Muslims in Scotland show that about 70 per cent live in Glasgow. On the basis of those statistics, we can anticipate that 70 per cent of the Shia Muslims also live in Glasgow. So the majority of the Shia Muslim population is in Glasgow.

Robin Harper: Right. Do you have a mosque in Glasgow?

Syed Naqvi: Yes, we have a Central Mosque in Glasgow, but it is dedicated to Sunni Muslims. There is a purpose-built community centre, and they have all the facilities. The petition is an individual effort—I do not claim that I am a community leader—but, as a student of social sciences, I have analysed the situation for quite a long time. Shia Muslims require the same platform.

Robin Harper: Do the Shia Muslims worship with the Sunni Muslims at the same mosque?

Syed Naqvi: Yes, they worship together. I went through the administrative notes, which said that petitioners can bring in their MSP, and I was imagining that the late Mr Bashir Ahmad could have been sitting on one of these seats. He promoted the idea of bridging the gaps, not just within one religion but between people of various faiths and backgrounds. Unfortunately, there is a situation in which the Shia Muslims require a separate community centre. The ones in the Central Mosques in Glasgow, Dundee and Edinburgh are not open opportunities for us.

Robin Harper: Yes, we all miss Bashir Ahmad.

Nanette Milne: I confess ignorance, as I come from Aberdeen and, although we have a Muslim population, it is not as big as the population in

Glasgow. First, can you give me an idea of what community centre provision there is for other religious and ethnic groups? I really do not know. Secondly, I am keen to see integration of all ethnic groups in Scottish society. How would a separate community centre assist integration? My question is genuine, as I am struggling to understand how that would work.

Syed Naqvi: I have come to the committee with the idea of a community centre that bridges the gaps. In modern Islamic jurisprudence, people have beliefs and ideologies and the problem is that there can be a gap between them and modern society. It is not the fault of the believer or of religion; it is the fault of those who have not understood the true meaning of Islam. In the first instance, it looks as if community centres separate people, but if people come to them we can utilise those platforms to bridge the gap rather than increase it.

Anne McLaughlin: When you mention Bashir Ahmad, you have me onside. As Robin Harper said, we all miss him a great deal. I know that he discussed the petition with you.

I am trying to understand the issue. I know that Shia and Sunni Muslims worship at all the mosques in Glasgow, but you are saying that the community centre attached to the Central Mosque is mainly attended by Sunni Muslims and that, although you can go to it, it is primarily for Sunni Muslims, who have a different take on Islam from you. You are therefore looking for a centre where Shia Muslims can go, although not to practise religion as you go to the mosque to do that.

Will you explain what sort of things would happen in the community centre? I know that you said in answer to Nanette Milne that you see the separate community centre as being able to bridge the gap. Will you give me an example of how that would come about? If that arose as a result of the centre, you would get a lot of support, but a lot of people would ask how separating people into different camps and putting them in different buildings will help integration. I have two questions: what would happen in the community centre, and will you give an example of how it would help to bridge the gap between you and other religious groups?

Syed Naqvi: As I said in my introduction, the community centre would not be only for religious practices. It would have a diversified role that would consider the needs of the community. Initially, we would need experts—I would rather say social scientists and activists in society—to analyse the needs of society.

If we work in a community, we must analyse what we require to bring the community together. People go to religious places, but those places

have not been used in the proposed way, because they have not been designed to ensure that people have an awareness of society and how they can participate actively in it. That is the overall idea of the community centre for which we petition.

You ask how we can integrate people. If people have an awareness of society and of the true meanings of their religion, that will bridge the gap between people. Mr Bashir Ahmad was not a Shia Muslim—he was a Sunni Muslim—but he did quite a lot of work for Shia Muslims, too. He was an example for us that someone can represent the Shia community of Scotland, too. We can have a platform that brings people together.

John Wilson: Good afternoon. I am trying to get to the root of why you feel that you need a full-time dedicated facility. In smaller communities throughout Scotland that do not have a large Sunni or Shia Muslim community, groups use existing community centres. You ask for a departure from current policies. We have information that the Big Lottery Fund will not consider grants to religious organisations.

You mentioned the Central Mosque in Glasgow and the community facility that is attached to it. I understand that the community contributed to and built those facilities. The community made financial and other contributions to ensure that those facilities were developed and used.

How can you justify requesting Government funding to provide a full-time facility when Muslim groups use general community centres throughout Scotland for acts of worship and teaching? I know of a group that is local to me that used the local community centre for the full month of Ramadan and did not have a special community facility.

Syed Naqvi: We do not have the official statistics that an individual who presented a petition for an organisation would have. If 50,000 Muslims live in Scotland and 70 per cent of them live in Glasgow, that means that about 7,000 Shia Muslims live in Scotland. If we are talking about the participation of 7,000 people, we need a separate community centre that we can use for education, counselling, careers advice and a diverse role. We cannot achieve that objective with a part-time community centre.

15:00

Rhona Brankin: Good afternoon. Will you clarify something for me? Our briefing note refers to the Shia Asna Ashri Islamic centre in Glasgow. Is that the centre to which you were referring, which is attached to the Central Mosque?

Syed Naqvi: That is a community centre that we have, but I would rather say that it is a place of

worship. I could not describe the centre as a mosque, because it does not have enough space. We have one centre that is a kind of mosque, in south Glasgow.

People have made an effort to have their own community centres, but we must look at the issue from a wider perspective. We have a small mosque and a place of worship, but we must also look at integration. If communities can come together and we can utilise their potential, we can move on to the next stage, when we can integrate other groups. That is the basic idea. We want to integrate people and have a proper, purpose-built, dedicated community centre for Shia Muslims.

Rhona Brankin: Is the Shia Asna Ashri Islamic centre more a place of worship than a community centre?

Syed Naqvi: Yes.

The Convener: There are issues to do with resources, integration and race. How we understand one another better is a key question for all of us, and I am sure that that has been your key message today.

Syed Naqvi: Exactly.

The Convener: The areas that have concentrated numbers of Scottish Muslims are in Glasgow and Edinburgh. Has there been a chance for people who support the petition—beyond the dialogue that people had with Bashir Ahmad about taking the idea forward locally—to have discussions with officers and elected members at the local level, to identify the demand and consider how to address your concern about respect for your cultural traditions and building a network of support? Have you had much chance to have such discussions?

Syed Naqvi: People say that Mr Ahmad was the main person who supported the idea in south Glasgow. He made quite a big contribution and helped us to bring together not only people from Glasgow on a social and political platform but the energies of different pockets of society, which can make a positive contribution to society. Such things have been discussed and considered on that level.

As I said, I do not consider myself to be a community leader; I just consider myself to be a responsible member of the community, who is putting across the idea to the Parliament's Public Petitions Committee.

The Convener: I invite further comments or questions from members, before we determine how to take the petition forward.

Robin Harper: I was impressed when Mr Naqvi started by talking about his values. Knowing what those values are and what is being asked for is

important. There is no doubt that we have perhaps 7,000 people who think of themselves as a community in one way or another, as well as being part of a much wider community.

The petition is well worth discussing, to see what the best way forward is. I am not sure if that would necessarily be a purpose-built community centre, but there certainly might be something that would accommodate the identified needs of that community.

I suggest that we write to the Association of Scottish Community Councils and the Muslim Council of Scotland, for a start, to get their responses.

Rhona Brankin: It would be useful to contact Glasgow City Council, to find out what its thinking is and whether it is aware of the petition. We should get a response from the council on possible ways to help.

Nanette Milne: I would be interested in hearing the Scottish Inter Faith Council's views on the petition.

Anne McLaughlin: I am not sure whether this would be covered by our writing to the Scottish Inter Faith Council, but I suggest writing to minority religious groups. The petitioner ideally wants a dedicated community centre, but we must consider all the different options. Woodside hall, for example, is used by Sri Lankan Buddhists. In fact, any time I go there, it seems to me like a dedicated community centre for them. They certainly feel at home there, although they, too, are looking to move to their own dedicated premises. It would be interesting to write to minority religious groups to find out how they deal with the issue and what suggestions they might have.

The Convener: We also want to explore what discussions could be had with Scottish Government officials about the issue. As I think the petitioner said in his opening remarks, we want to stress the idea of increasing understanding between groups rather than keeping them separate, because there are strengths in bringing people together. The petitioner is seeking how best to do that. His group has a small place for religious worship and an understanding with the Central Mosque in Glasgow, but there could be a need for that to be widened out, and we could raise that matter with others. I certainly encourage him to think about pulling together some people to raise matters with elected members at local and national levels to see how a dialogue could be opened up.

We will keep the petition open to explore the points that you have raised, Mr Naqvi. We will ask for comments and observations from a variety of organisations that we think have knowledge of, or

insight into, the issue. As I have said to previous petitioners, you can continue to communicate with our clerks about the progress of the petition, which will come back to the committee for consideration some time in the near future, once we have gathered information. I hope that the process has not been too intimidating for you. For someone appearing here for the first time, you did exceptionally well.

Syed Naqvi: Thank you.

Thomas Muir (Statue) (PE1325)

The Convener: The next petition is PE1325, by Patrick Scott Hogg, calling for the Parliament to support the erection of a statue of Thomas Muir in the vicinity of the Parliament building or at an appropriate place on the Royal Mile. Do members have any comments?

Rhona Brankin: Thomas Muir is a hugely important figure for Scotland. He is probably as important now as he ever was, but it is not up to the Parliament to decide where statues are erected. I am not sure what other statues of him there are. I know that there is a Thomas Muir museum and centre in Dunbar, and I think that I am right in saying that there is a statue of him there, too. However, it would be interesting to find out from the City of Edinburgh Council whether it would consider such a thing.

Anne McLaughlin: I support what Rhona Brankin has said. I think that what the petition seeks is a great idea, but it is not up to the Scottish Parliament. I assume that the City of Edinburgh Council makes such decisions, so I would contact it to see what it thinks about the idea.

Robin Harper: I speak on this issue as chair of the Scottish Parliament art advisory group. We have had many offers of statues of famous people in Scottish history and have taken the view that the Parliament is not the appropriate place for such commemorative statues. It is much better for local councils to honour the people who have honoured places in their past. The Scottish Parliament cannot go down that road.

The Convener: So, the recommendation is that we make inquiries of the appropriate organisations or bodies to decide on what the petition seeks. There might be a broader debate about how to recognise the contribution made by individuals such as Thomas Muir to the evolution of Scottish democracy. Others will decide whether there should be a statue of him, but there may well be other ways in which to recognise individuals who have made a contribution.

John Wilson: It might be worth while for us to write to the Scottish Government to ask for its

opinion on the erection of statues of historic figures. I take on board what Robin Harper said about the corporate body's views on accepting pieces of art, but perhaps the Scottish Government and the Scottish Parliament should consider those historic figures who made a major contribution not only to Scotland or the United Kingdom, but in shifting the thinking of many people around the world. Perhaps they should reconsider their view on whether to commission art.

I am struck by the fact that the Houses of Parliament can erect statues of past Prime Ministers within their vicinity. We are all aware of the unveiling by Tony Blair of the statue of Margaret Thatcher two years ago—I think that it was Tony Blair who unveiled it. We have to take some responsibility for people who have played a significant role either in Scottish society or around the world. We have an opportunity to recognise and mark the contribution that Scots have made to thinking around the world, and the petition might present an opportunity to open up a debate about that with the Government and in the Parliament.

Rhona Brankin: I think that I was getting confused. The Dunbar Muir is a different Muir. I clarify that there are definitely no statues in Dunbar of the Thomas Muir who made a contribution to democracy and the democratic process.

The Convener: Common names in Scotland such as Muir can confuse us all.

We will take those suggestions on board and explore them. We will bring the petition back in due course.

Current Petitions

Criminal Memoirs (Publication for Profit) (PE504)

15:12

The Convener: Item 2 is consideration of current petitions, which are petitions that we have considered before. We have 13 of them today. The first is PE504, by Mr and Mrs James Watson, which is on not allowing individuals who have been involved in crimes to make profits by selling accounts of their crimes for publication.

The petition has been in the system for a considerable time; it is one of our oldest petitions. We have had a kind of tennis match, backwards and forwards, with discussion of legal processes with the United Kingdom Home Office and authorities in Scotland, to try to clarify the matter. There are still some outstanding issues for us to explore, so I do not think that we would wish to close the petition today. We are still waiting for a final resolution by getting agreement for the minister perhaps to take some action. Are members happy for us to continue to explore the outstanding issues?

Members indicated agreement.

The Convener: We will keep the petition open and ask the Ministry of Justice and the Scottish Government how they will deal with the publication of criminal memoirs following the libel working group report.

High-voltage Transmission Lines (Potential Health Hazards) (PE812)

The Convener: We have also considered PE812 on a number of occasions. The petition, by Caroline Paterson on behalf of Stirling Before Pylons, calls on the Scottish Parliament to urge the Government to acknowledge the potential health hazards that possibly emanate from high-voltage transmission lines. We have had substantial discussions about the petition and a number of elected members have expressed interest in it. I know that Dr Richard Simpson, who is unable to be here today, is still very supportive of exploring the issues. Do members have views on how we should proceed?

Nanette Milne: We have explored many issues in connection with the petition and there might not be much further to go, but I would not like to close the petition today because the Stirling mitigation scheme is due to go to the minister next month. I would like to keep the petition open until we hear how that addresses the petitioner's concerns.

The Convener: I am fairly relaxed about that, but given that behind the scenes the clerk is keen to remind me that we have a number of petitions that we have perhaps taken as far as we can, I hope that we will make a conclusive decision on the petition next time we consider it. That will almost keep the clerk happy. I have thrown a bone across the table to try to appease him.

Blood Donation (PE1135)

15:15

The Convener: PE1135, from Rob McDowall, calls on the Parliament to urge the Government to review existing guidelines and risk assessment procedures to allow healthy gay and bisexual men to donate blood. We have had a chance to hear directly from petitioners on the matter. We are still waiting for information. I suggest that we continue the petition until the UK Advisory Committee on the Safety of Blood, Tissues and Organs has completed its review and that we ask the advisory committee whether it will include lesbian, gay, bisexual and transgender groups in the membership of its working group. This is a sensitive issue because of the procedures that have been applied in the past, but there is a genuine issue of engagement. Let us try to explore that. Do members agree to continue the petition on those grounds?

Members *indicated agreement.*

War Veterans (Health Care) (PE1159)

The Convener: PE1159, from Mrs S Kozak, calls on the Parliament to look at providing NHS Scotland and other relevant organisations and individuals, including veterans of the Gulf war in 1991, with all necessary information and facilities to ensure that veterans who have been exposed to nerve agents and their preventive medications are assessed, advised and treated appropriately and fatalities are prevented. How do members wish to deal with the petition?

Rhona Brankin: We should continue it. There are a range of issues that we need to explore further with the Scottish Government.

The Convener: We should seek comments on a number of points, such as the inclusion of web addresses in guidance and the medical alert card, that the petitioner has drawn to our attention. We should ask what structure has been put in place to address those concerns. Do members agree to continue the petition until we have received responses on those points?

Members *indicated agreement.*

Acquired Brain Injury Services (PE1179)

The Convener: PE1179, from Helen Moran, on behalf of the Brain Injury Awareness Campaign, calls on the Scottish Parliament to urge the Government to introduce a separate and distinct health and community care client category of acquired brain injury to ensure that people with such injuries are given the proper support and services that they require.

Nanette Milne: I would be reluctant to close the petition at the moment. We should keep it open, because comments have been made about the proposal to develop the clinical network into a managed care network. I would like to hear what the Association of Directors of Social Work has to say about that, because there is concern about the care of people with acquired brain injury.

The Convener: Do members agree to continue the petition on those grounds? Once we have received the response that has been requested, we can consider the petition again and make a conclusive comment.

Robin Harper: The Scottish Government says that it believes that having a separate ABI care category is contrary to its work on long-term conditions and the central aim of treating people as people and not defining them by their condition. That needs some explanation if there are concerns about the level of care that is available for ABI patients.

The Convener: We will take those points on board.

Social Rented Housing (Standards) (PE1189)

The Convener: PE1189, from Anne Lear, on behalf of Govanhill Housing Association, calls on the Parliament to urge the Government to conduct an inquiry into the responsibilities of private landlords, the levels of social housing below tolerable standard and the impact that slum living conditions have on the health and wellbeing of both residents and the wider community. As the elected member for the constituency, I declare an interest in the petition. I made that known when we considered the petition previously.

We have a letter from the director of Govanhill Housing Association in response to the letter from the Minister for Housing and Communities. I put on record the appreciation of all committee members for the positive engagement that we have had with the minister. A genuine attempt is being made to resolve the issues that the petition raises, but all of us recognise that that has as much to do with resources and budgets as it has to do with the willingness of all of us to engage with the issues. In this instance, my experience

with the minister has been very positive. He did not ask me to say that, but I thought that I should put it on the record.

John Wilson: I will speak to you about that later, convener.

The minister has responded to the petition and indicated what action he proposes to take in the private sector housing bill that has gone out to consultation. We need to continue the petition, because we need more detail on what will be in the bill. I say that as a member of the Local Government and Communities Committee, which is considering the Housing (Scotland) Bill and is likely to consider the proposed private sector housing bill. We need more detail on how what is proposed will not only resolve the issues that Govanhill currently faces in the private rented sector, because of the conditions in which people are expected to live and the landlords who operate the properties, but address other wider responsibilities around social rented housing in the area. We have to write to the minister to ask how the discussions with Glasgow City Council and the other agencies that are involved are going and how the issues that committee members witnessed at first hand in Govanhill are being resolved, so that we can see what progress is being made. The proposed private sector housing bill might take several months to go through the parliamentary process. We have to try to allay the fears of residents in the area that nothing will happen. We need to see some positive signs. I suggest that we write to the minister and Glasgow City Council to ask for an update on discussions, particularly in light of the response from Govanhill Housing Association.

The Convener: Are members happy to keep the petition open and to explore those issues?

Members indicated agreement.

Bone Marrow Services (PE1204)

The Convener: PE1204, by Jessie Colson, on behalf of the Richard Colson Severe Aplastic Anemia Fund, is on support for bone marrow services and the encouragement of more donors, particularly in light of the situation faced by Richard Colson over the years. I invite comments from members. We have explored the petition previously to a lengthy degree. I hope that we can now consider closing it. Are members willing to close it on the ground of the dialogue that has been opened up on the issue, which will hopefully mean that there is something more for individuals who are facing what Jessie Colson had to face?

We have had responses back from the Government on actions that the Scottish National Blood Transfusion Service is taking forward. There is a willingness to look at approaches taken in

other European countries. I hope that there will be continuing dialogue between the petitioner and the SNBTS.

Rhona Brankin: If the petitioner still has concerns a number of years down the track, what would be the position on bringing the petition back? Would that be possible? What is the timeframe involved?

Fergus Cochrane (Clerk): The petition could be brought back. There are limitations on bringing it back within a year, unless there is something substantially different in it. We would be quite happy to work with the petitioner if she wanted to bring it back.

Rhona Brankin: That information could be given to the petitioner.

John Wilson: It is worth saying that the Scottish National Blood Transfusion Service, along with the Anthony Nolan Trust, is doing a lot of work on a number of the issues that the petitioner raised. The issue is moving forward and we should commend the work that those organisations are doing. That is part of the reason why we can close the petition.

Nanette Milne: The Government is actively studying a means of increasing recruitment to the bone marrow bank. It has stated that it will continue to encourage work to raise awareness of it and increase registration, through its support of SNBTS.

The Convener: Thanks for that. We will close the petition on the grounds indicated. Is that okay?

Members indicated agreement.

Scottish Courts (McKenzie Friends) (PE1247)

The Convener: PE1247, from Stewart Mackenzie, calls on the Scottish Parliament to urge the Scottish Government to introduce a McKenzie friend facility in Scottish courts as a matter of urgency. We have repeatedly had a chance to discuss the petition, for which elected members have previously expressed their support. Again, I am in the hands of the committee on how best to deal with the petition.

Nigel Don: I am probably not the only one who feels slightly confused about where we have got to. The issue seems to be moving so fast that I am not sure on which side of the net the ball has ended up. However, we should commend the Lord President for getting on with things and for explaining, in his most recent letter, some points that we did not get round to discussing during our previous meeting due to shortness of time.

I want to raise two points about the suggested rules in the Lord President's letter of 19 February,

which predates our previous meeting. Paragraph 5 of that letter states:

“The certificate should ... confirm that the lay assistant has no interest in the case”.

I get the impression from the Lord President's subsequent letter that he sees no problem with the lay assistant being a family member or friend of the litigant. Therefore, I draw the conclusion that the suggestion that the lay assistant should have “no interest” should be translated as “no greater interest than the litigant”. That is what I would have expected, so I have no problem with that. However, I thought that I had better put that on record in case I am wrong.

Secondly, the Lord President's letter of 19 February states immediately thereafter that the McKenzie friend—or lay assistant, as we should perhaps now describe him—is

“to receive no remuneration for his or her services in any form”.

I can quite understand why the Lord President should take that view, but there is good reason to believe that that might not be the best view. Given that many of those who might act as lay assistants might be paid by a charity such as a citizens advice bureau to help those who need help, it seems a step too far to assert that the lay assistant should receive no remuneration from anywhere. I can well understand that the Lord President and his colleagues do not want, as it were, second-class lawyers hawking themselves around as McKenzie friends, but I am slightly concerned that the suggested rules go a bit too far. Can we ask the Lord President to consider that point, so that those with experience of the subject who could well help people are not required to act completely for nothing when a charity might support them?

Nanette Milne: In addition, the petitioner obviously still has concerns about the terminology of “lay assistant” rather than “McKenzie friend”. Given that *Which?* magazine and Consumer Focus appear to use only the term “McKenzie friend”, can we perhaps press for the retention of that term?

The Convener: We will continue with the petition and explore those suggestions. However, the clerk is keen to get clarification on whether we should push the Lord President to defer consideration of the issue.

Nigel Don: My instinct is not to defer anything at all. I am sure that the Lord President has the good of the system at heart, as people do not get to be Lord President without having a pretty good idea of what goes on in the courts. I think that we should trust him to get on with it. If, one way or another, he and others come to the conclusion that they did not get it quite right first time round, I

suspect that the speed with which he is now acting demonstrates that he will be swift to amend things. I do not think that we should defer anything for the sake of it.

The Convener: Okay. We will continue with that petition.

Holiday and Party Flats (Regulation) (PE1249)

15:30

The Convener: PE1249, from Stanley Player, calls on the Parliament to urge the Government to introduce a statutory duty on landlords offering short-term holiday and party flat leases to register the property as such. We have discussed the petition before among committee members and several other members with an interest in the issue. I know that we have all received a letter from Sarah Boyack, whose Edinburgh Central constituency is sharply affected by holiday and party flat leases.

Do members have any comments on the petition? I think that there are some outstanding issues.

Rhona Brankin: Yes, there are. We should put questions to the Scottish Government on what has happened since the meeting in March. In light of the latest letter from the petitioner, we also need to ask what is happening to the way in which antisocial behaviour in party flats is dealt with.

The Convener: Okay.

John Wilson: We should try to find out from the Scottish Government what is happening to bring the law on party flats into line with that for houses in multiple occupation. I think that the current HMO legislation does not fully cover party flats. We need a response on whether party flats will be covered by the proposed new Government legislation.

The Convener: Okay.

Police Officers (Convictions) (PE1252)

The Convener: PE1252, from Angus Grant, calls on the Scottish Parliament to urge the Scottish Government to review all legislation and guidelines that give chief constables discretion to retain police officers despite any convictions that they have. We have discussed the matter on a number of occasions.

Nigel Don: I get the impression that we are in a position to close the petition. We have urged the Scottish Government to review the matter and it has done so. Whether everybody is happy with the result is another matter. Perhaps some people will never be happy with it—indeed, there may be

logical reasons why they should not be. The case for having an external review can always be made, but it can also be argued that internal systems work well in practice. The evidence that we have before us suggests that in all serious cases of which we are aware, the officer concerned resigned. I am not sure where the balance should lie. I am sure that we will not satisfy everybody, but we have done what the petitioner asked us to do. The Government and police service have come to the conclusion that they are not inclined to change anything. On that basis, we should close the petition.

Robin Harper: I agree with Nigel Don.

The Convener: Okay. Committee members agree to close the petition.

Medical Negligence (Pre-NHS Treatment) (PE1253)

The Convener: PE1253, from James McNeill, calls on the Scottish Parliament to compel the Scottish Government to establish a discretionary compensation scheme to provide redress to persons who suffered injury due to negligent medical treatment prior to the establishment of the national health service. Christine Grahame has an interest in the petition and joins us again.

Christine Grahame (South of Scotland) (SNP): I think that we are all agreed that my constituent, the petitioner, has suffered an injustice; yet no one will take responsibility for what happened to him in the system, historic though the case may be. As the committee knows, the damage to Mr McNeill's hand was caused by exposure to radium as part of treatment for the simple matter of warts in childhood and has deteriorated over time. Of course, the treatment was pre the national health service, but it was done by what is now NHS Highland. I understand that under section 13 of the National Health Service (Scotland) Act 1947, on its establishment the NHS took over all liabilities of its historic predecessors—or so it seems. Therefore, there is an obligation on the NHS to meet liabilities that have been incurred. I am not sure whether the Government has addressed that thus far, convener.

My constituent and I accept that the route of claiming medical negligence through litigation is long since closed. That is why he is calling for a discretionary, no-fault scheme. The no-fault compensation that the Government is examining will not be retrospective; so it will not apply in his case. My constituent has a *prima facie* case of negligence, which—in my view—requires remedy.

I will fly a couple of kites, if I may, convener. There are workable models that the committee may wish to look at. I am not saying that a crime is

involved in this case, but the Criminal Injuries Compensation Authority operates a set of tariffs for physical and mental injuries that are the result of criminal activity, which ranges from £1,000 to £0.25 million, with extensions for loss of earnings and so forth. The compensation follows rules and values that were established by Parliament. The committee may wish to consider that system, under which no person may be caught but compensation is made for injury.

There is also Motor Insurance Bureau compensation for injuries that result from the actions of an uninsured or untraceable driver. The bureau, which was established in 1946, places a levy on every insurer who provides motor insurance—an obligation that dates back to the Road Traffic Act 1930. The scheme gives remedy to those who would otherwise have none.

We are talking about a principle. People who have been injured through negligence—in my constituent's case, the medical evidence substantiates that—and to whom no other remedy is available because the case is so historical, ought to be entitled to compensation. I am not talking about people who have gone to court and failed or people who have missed the triennium; I am talking about cases from way back, pre the NHS, which is a very narrow field. There is a principle that people in such circumstances deserve some compensation.

The next question, which is probably for the Government, is how much it would cost to provide such compensation and how that would be done. I know that the Government has said that there would be a substantial number of claimants, or words to that effect. I got in touch with the Scotland Patients Association and it could not tell me how many claimants there might be. I would like to know where the Government's numbers come from so that we can talk about both the principle and the cost.

I hope that by mentioning the CICB and the MIB I have given the committee some ideas. There are ways of approaching the issue. I would like the petition to be continued.

The Convener: Do members have any observations?

Rhona Brankin: I think that we should continue the petition and raise with the Government the points that Christine Grahame has made. Given that the no-fault compensation review group is due to report in October 2010, it would be sensible to keep the petition open.

The Convener: As there are no other suggestions, we will take on board the comments of Christine Grahame and Rhona Brankin and will explore the issue further.

Fire (Scotland) Act 2005 (PE1254)

The Convener: PE1254, by Mark Laidlaw, calls on the Scottish Parliament to urge the Government to amend section 51 of the Fire (Scotland) Act 2005 to allow flexibility so that an employee of a fire and rescue authority can also be employed as a special constable. We have discussed the petition on previous occasions but, as there are still issues that it is worth exploring, members might want us to continue our consideration of it. I invite comments on areas of particular concern or interest.

Christine Grahame: Mark Laidlaw is one of my constituents. I do not know how many special constables there are in Scotland or whether there is a deficit. Firefighters are excluded, even though there might be a practical need for special constables. It might be useful to know the numbers.

The Convener: There are some other issues that the petitioner is concerned about, which he wants to be addressed. We could explore whether any action has been taken as a result of meetings that the Chief Fire Officers Association and the various other organisations that deal with such matters have had on the issue.

Nanette Milne: I suggest that the Government could organise a round-table meeting with the various interested parties, such as ACPOS, the Chief Fire Officers Association, the unions and the Scottish Police Federation, to discuss the issue.

Nigel Don: I endorse Nanette Milne's suggestion. The petition is one of those where I have reached the point at which I am struggling to get my mind around what the issue is and who objects to what the petitioner is asking for. I do not know whether it is a case of nit-picking or whether there is a point of principle at stake, whereby a problem could be caused when there was a fire or some other event in the real world. Perhaps we could get the appropriate parties, including all those who seem to object to what is proposed, around the table, give them a large jug of coffee and tell them to work out whether there is an issue. If there is, it would be good if they could put it in one sentence.

The Convener: We can do all the other things, but I am not sure that we can guarantee coffee or one-sentence answers.

Nigel Don: I suspect that coffee will be easier to provide than a one-sentence answer.

The Convener: We will continue the petition and explore the suggestions that have been made.

Court Reporters (PE1257)

The Convener: The final current petition is PE1257, by Mark Hutchison, which calls on the Parliament to urge the Government to take measures to ensure that solicitors who act as court reporters and who knowingly supply false information to a sheriff are not immune from prosecution, and that their reports are amended to correct any inaccuracies before a decision by the court is made.

Do members have any comments on the petition, which we have discussed in detail? I suggest that we close it.

Nigel Don: I fully understand where the petitioner is coming from. He clearly feels aggrieved and that the solutions that were available to him are inadequate.

I note that we have a copy of a letter from a sheriff principal explaining the lie of the land. It is clear that the courts are not at all interested in having their judgments impugned by other people, other than through the appropriate legal process. The letter states quite categorically where the courts are coming from. Solicitors acting as court reporters are immune from prosecution, and courts are not going to entertain that. We have explored the issue. Other remedies were available, but that is, quite simply, the law. We have done what we can. Again, the petitioner will not be happy, but I do not think that we can take the petition any further, and I suggest that we close it.

Rhona Brankin: I think that the petition came to the committee before I became a member. From whom did we seek information in the interests of the complainant or the consumer in this kind of situation?

Fergus Cochrane: I cannot remember every organisation, but I know that the committee wrote to the Scottish Government, the Law Society of Scotland, the Faculty of Advocates, Consumer Focus and two or three other organisations that I cannot remember off the top of my head. The petitioner has also had the opportunity to comment at each stage.

Rhona Brankin: Was Consumer Focus's response significantly different from those of the others?

Fergus Cochrane: I cannot remember the terms of the response.

Rhona Brankin: I am not really in a position to comment, so I will go with what the rest of the committee thinks.

The Convener: We will close the petition on the grounds that we have discussed.

New Petitions (Notification)

15:41

The Convener: Notification of the new petition that has been received is in the paper that was circulated.

Work Programme

15:41

The Convener: Item 4 is our work programme. The clerk has presented a paper to the committee, and I invite comments on it. The business schedule is tight at the moment, and members have been involved in lots of frenetic activity, so should we reconsider the external meeting that is planned for 17 May? We will reschedule it for later in the calendar year.

I am conscious that, as of the coming Thursday, it will be one year until the Scottish Parliament elections; every soul around the table is aware of that. We are coming into the final year of the current committee and there are still some pressing issues and a backlog that we need to sort out. I am keen that the committee that succeeds us does not inherit the backlog that we inherited and felt was a burden. Does the committee agree not to proceed with the external meeting?

Members *indicated agreement.*

The Convener: We will revert to holding a meeting at Holyrood on Tuesday 18 May. We could aim to hold the external meeting on 20 September in Arran, weather permitting.

As convinced by the clerk's paper and members' experience, we are considering entering into partnership with the Scottish Youth Parliament conference and holding a young petitioners event on 29 October. We will schedule that in as well, with the committee's approval.

Nigel Don: I endorse the view that I took from the clerk's paper that we need to give serious thought to our legacy to the next committee. That is not because I particularly want to be kind, although that is always a good move, but because I am very aware—

The Convener: Kindness is a worthy emotion.

Nigel Don: Indeed. We have worked our way into the petitions and gradually got to know them. Rhona Brankin commented on one that came to us before she got here, and I am sure that we all remember when we started. We should do our level best to tie up as many petitions as we can so that the ones that get carried over are the ones that need to be carried over and not just ones that we have failed to deal with. That would be a kindness and it would be worth while.

The Convener: You are gladdening the heart of the committee clerk with those words. I am aware that we have just considered a couple of petitions that we want to keep open for good reason, but we might have to be clearer. Ultimately, our judgment should be about whether we can still add to a

petition. If that is our judgment, we can decide to continue with a petition.

Meeting closed at 15:45.

If there is nothing else on that item, we are now at the end of the meeting. I thank members for their participation.

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