



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 23 November 2010

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PUBLIC PETITIONS COMMITTEE

18th Meeting 2010, Session 3

CONVENER

*Rhona Brankin (Midlothian) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

Bill Butler (Glasgow Anniesland) (Lab)

*Cathie Craigie (Cumbernauld and Kilsyth) (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

Jamie Hepburn (Central Scotland) (SNP)

Jamie McGrigor (Highlands and Islands) (Con)

Dr Richard Simpson (Mid Scotland and Fife) (Lab)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Murdo Fraser (Mid Scotland and Fife) (Con)

Christine Grahame (South of Scotland) (SNP)

Christopher Harvie (Mid Scotland and Fife) (SNP)

Des McNulty (Clydebank and Milngavie) (Lab)

Alex Neil (Central Scotland) (SNP)

Gil Paterson (West of Scotland) (SNP)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Dr Richard Simpson (Mid Scotland and Fife) (Lab)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 23 November 2010

[The Convener opened the meeting at 14:03]

Current Petitions

The Convener (Rhona Brankin): Good afternoon everyone, and welcome to the 18th meeting in 2010 of the Public Petitions Committee. As you will see from the agenda, we have an extremely busy afternoon ahead of us. There are 62 current petitions to be considered, although some of them will be taken together.

The committee is committed to facilitating petitions' journey through the process as efficiently and effectively as possible, and we hope that considering only current petitions today will prove beneficial to petitioners in moving their petitions forward. I assure those who are following our proceedings that, despite the number of petitions that are before us this afternoon, members have carefully considered the written submissions. We have had all the papers in our possession for nearly two weeks, which has given us time to go through everything carefully. We also have some late submissions that relate to the petitions that we are considering today.

I want to make a point about our discussions this afternoon. We may spend only a few seconds on some petitions because that will be all that is required for us to reach a decision. That should not be seen as the committee taking its role lightly. We have planned for this meeting, and we need to make efficient use of our time. As I have said, we have had the papers for some time, and we have had ample opportunity to consider what action to take for each petition.

I suggest that we take a short, 10-minute comfort break after consideration of PE1315. That will be about halfway through the agenda. I believe that extra-strong coffee has been ordered for then, although I am not sure whether that is the right drink.

Apologies have been received from Bill Butler. I ask everybody to ensure that all mobile phones and other electronic devices are switched off.

St Margaret of Scotland Hospice (PE1105)

The Convener: I ask for members' permission to deal with PE1105 first. Gil Paterson wants to speak to it, but at quarter past 2 he has another committee meeting at which a particularly

sensitive issue will be dealt with. Are members happy to consider PE1105 first?

Members indicated agreement.

The Convener: PE1105 is from Marjorie McCance, on behalf of the St Margaret of Scotland Hospice. Do members have any suggestions on how to proceed with it? At this juncture, it will be useful to bring in Des McNulty and Gil Paterson to speak to the petition. I ask them to be as brief as possible.

Des McNulty (Clydebank and Milngavie) (Lab): I appreciate that the committee is frustrated that the petition keeps coming back to it, but the reason for that is that we have not really made the progress that requires to be made.

The petition is in two parts. One part deals with overall hospice funding. Some work has been done on that, but it has not yet been made public. I asked the Cabinet Secretary for Health and Wellbeing a question about that work around three or four weeks ago. I think that a document is still circulating among interested stakeholders and officials, but it has not yet been made public. That document might deal with that part of the petition.

The other part of the petition, which is probably the more controversial part, deals with Greater Glasgow and Clyde NHS Board's proposal to remove funding from the 30 continuing care beds at St Margaret's. My constituents are firmly opposed to that, and I am sure that colleagues will tell committee members that the issue is not only a Clydebank and Milngavie issue; it is relevant more widely in the west of Scotland.

We believe that the hospice has been very badly treated and that things have gone on for far too long, and we want the cabinet secretary to intervene and the health board to come up with a viable solution. We believe that the petition is part of the process of putting pressure on health boards to be reasonable. I urge committee members to keep it open and to pursue the reasonable aim of arranging a meeting involving Greater Glasgow and Clyde NHS Board and hospice board representatives. I think that committee members agreed to do that at the previous meeting, but as far as I am aware, no such meeting has yet taken place. We need to resolve the issue, which is important to the people of the west of Scotland.

Gil Paterson (West of Scotland) (SNP): I am grateful to the committee for bringing forward consideration of the petition.

The petition should not be kept open just for the sake of keeping it open; rather, it must have a useful purpose in assisting people to reach a solution. I think that the committee can reach a solution by requesting health board and hospice

representatives to sit down together and come up with options that can be considered. From my perspective, there is only one option on the table, and there are no choices if there is only one option. Therefore, I ask the committee to keep the petition open. That would be helpful, as it would say to the health board and the hospice that it is time for people to sit down and come up with meaningful measures that both can sign up to. That is achievable, but it will never happen if there is only one option on the table.

The Convener: Right. Can I have some views please?

Robin Harper (Lothians) (Green): The petition has been considered 11 times during the past three years. We have considered 41 submissions and we have heard from our hard-working local members on eight occasions. On reading through what has happened so far, I am tempted to say that we have done all we can, and that the petition can be closed. However, given the amount of effort that has been put into it, I am prepared to consider suspending closure at least until we have heard from the Scottish Government about the revised guidance, which should be out before the end of this month. That would be reasonable. Perhaps we could also write in the terms that Gil Paterson recommends.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am happy to continue the petition until we have had the report from the Scottish Government. We have a letter from Jean Anne Mitchell in response to some of the submissions, and I think that questions could be asked of NHS Greater Glasgow and Clyde. I believed that there was on-going dialogue, but the letter questions whether we can call the usual quarterly meetings to talk about everything that is happening in the hospice on-going dialogue on the specific point about the reduction in funding.

Nanette Milne (North East Scotland) (Con): I agree with what has been said. We should write to the health board and the hospice and stress how important it is for local people that they sit down together for a special meeting. We cannot force them to do it, but we can ask them to do it.

The Convener: Does the committee agree?

Members indicated agreement.

The Convener: The petition will be continued. I thank Des McNulty and Gil Paterson for their attendance.

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

The Convener: PE812 is by Caroline Paterson, on behalf of Stirling Before Pylons. I believe that Christopher Harvie is here to speak to the petition.

Christopher Harvie (Mid Scotland and Fife) (SNP): Thank you. I must apologise on behalf of Caroline Paterson, who cannot be here. She invited me, as an MSP for the Mid Scotland and Fife region, which includes the Stirling area, to make a short statement about recent developments.

I have read Stirling Council's response to Scottish Power's "Stirling Visual Impact Mitigation Scheme" report and, as a historian as well as someone who is involved in renewables in my committee work, I agree that the scheme will not result in any meaningful mitigation of power-line impact on Stirling's culturally important landscape and the population's concerns. Undergrounding options have not been considered appropriately, and Stirling Before Pylons points to misleading consultation leaflets that eliminate the pylons from the after pictures.

The proposals are superficial and do not meet the minister's demand that Scottish Power produce stringent mitigation for part of the Stirling area section of the Beaully to Denny line.

The Convener: I hesitate to interrupt you, but I think that we have a copy of your statement.

Christopher Harvie: So there is no need for me to read it out.

The Convener: We received a copy of it before the meeting, but would like to hear if you have anything to add.

Christopher Harvie: I will concentrate on two points. First, undergrounding in areas of considerable population in Germany is now regarded as virtually obligatory for health reasons.

Secondly, the landscape between Denny, Doune and Dunkeld is—I do not like the word "iconic" and would like it to be eliminated from all discourse in Scotland—one of the most history-packed visual landscapes in Scotland. It encompasses Bannockburn, the strategic point that is Stirling castle, the bridge and the university. Substantial use is made of the area close to the pylons. There is also, of course, Dunblane cathedral and the Sheriffmuir battlefield. One imagines that the outcry would be loud, sustained and successful if work on such a power line were to be undertaken in, say, an area close to Runnymede in the Thames valley in England.

The most important point is the health point, of course, but extremely significant landscapes are also involved. Because of its historical and visual quality, the landscape in question probably has one of the strongest cases for protection in Scotland.

14:15

Dr Richard Simpson (Mid Scotland and Fife) (Lab): The decision is about to be made and the Scottish Power consultation is about to conclude. As my colleague has just said, the proposed visual impact mitigation scheme is minimalistic—I think that that is the best way to describe it. Painting pylons green and growing a few shrubs and trees will not do the job; a massive swathe of land will be affected.

The petitioner and I have been concerned about the health issues all along. I want to speak about the two latest bits of information. First, the undergrounding of existing pylons as well as new pylons associated with the Olympic games in the London area indicates that at least some people are taking the matter quite seriously. They are not proposing to put up overhead pylons in the new Olympic area.

The other piece of information is that there is now a requirement in the Netherlands that no new pylons should be put within 300m of dwellings. That fact is important to the committee because 300 students live in a student residence that is within 300m of the proposed pylon line. Until now, we have always talked about a distance of 200m, but the Netherlands has already gone for a distance of 300m on a precautionary principle basis. The health issue might well affect a significant number of young people in the long term.

It is a disgrace that the United Kingdom Government has not revised its view of the health issues through the Health Protection Agency since 2004, despite the fact that multiple peer-reviewed papers have been published on the issues since then. I ask the committee to consider inviting the Scottish Government to consult Health Protection Scotland and to ask it to review the evidence that has been produced since 2004 before a decision is finally and irrevocably made that does not include undergrounding—which the petitioners seek and I support. That review should include consideration of the report of the stakeholder advisory group on extremely low frequency electromagnetic fields in order to determine whether the decision is safe. Putting up pylons and having to dismantle them in a couple of years' time would be very expensive.

John Wilson (Central Scotland) (SNP): In light of the arguments that Christopher Harvie and Richard Simpson have put forward on the issues that the petitioner has raised, I propose that we continue the petition. I think that we need to wait for the results of the consultation that Richard Simpson referred to before we can close the petition. We have to give the petitioner justice. We must wait until the Scottish Government has received the results of the Scottish Power

consultation and responds to it. The minister gave the impression in the chamber that visual impact mitigation factors would be introduced when the line was being created, but Scottish Power does not seem to have recognised or taken into account the particular health issues that Richard Simpson referred to. I suggest that we continue the petition until the consultation has been concluded and the Scottish Government has responded to it, when we can fully consider the results of that process.

Cathie Craigie: I support that, but can we also take on board Richard Simpson's point about inviting the Government to engage with Health Protection Scotland on taking into account the new research information that is available?

The Convener: It might be worth contacting the Government to say that the Netherlands has adopted a precautionary approach and finding out on what basis the approach has been adopted. It might also be worth finding out why pylons are being undergrounded in London—is it because it is a built-up area?—and on what grounds that decision was taken.

I think that we have agreed to continue the petition. I thank Christopher Harvie and Richard Simpson for attending.

Cancer Treatment (Cetuximab) (PE1108)

The Convener: PE1108 was submitted by Tina McGeever, on behalf of Mike Gray, and is on the availability of cancer treatment drugs. Members will be aware that Tina McGeever was nominated as campaigner of the year at the politician of the year awards last Thursday. I extend our congratulations to her for her nomination in recognition of the work that she has achieved through her petition. I ask for members' views on how to take the petition forward.

Nanette Milne: We are not ready to close the petition and should keep it going. However, quite a lot of progress has been made since the early days when the petition was first presented to us. We could probably still ask questions of the Government—for example, we could get a useful update on the development of work arising from the seminar on individual patient treatment requests that was held on 11 May and on the development of the good practice guidance for health boards. We could also seek an update on the progress that health boards are making in developing policies following the chief executive letter on 17 May and on whether any boards have such policies in place ahead of the deadline, which is spring next year. That would be a start.

The Convener: The petitioner has some additional questions to which it would be useful to seek responses. Does anybody else want to comment?

John Wilson: The Government is going to produce a policy statement on the quality-adjusted life year methodology. It would be useful to find out what is happening with that document and when it will be published. We could bring that into the debate when we next consider the petition.

The Convener: It might be helpful to contact some health boards to seek their views on the guidance. It is agreed that we will continue the petition.

Blood Donation (PE1135)

The Convener: PE1135, by Rob McDowall, is on reviewing the guidelines to allow healthy gay and bisexual men to donate blood. What are members' views on the petition?

Nanette Milne: The United Kingdom Advisory Committee on the Safety of Blood, Tissues and Organs is reviewing the donor deferral or exclusion criteria. We do not have that information yet so we should hold the petition over until such time as we get it. I propose that we suspend consideration of the petition.

The Convener: Do members agree?

Members indicated agreement.

Succession (Scotland) Act 1964 (PE1154 and PE1210)

The Convener: The next two petitions will be taken together because they both relate to succession law. PE1154 is by Mary McIlroy Hipwell, and PE1210 is by Mr I Chambers.

My understanding is that the petitioner is content for PE1154 to be closed in the light of the Scottish Government's decision to consult on the rights of children to inherit. Is the committee content with that?

Members indicated agreement.

The Convener: Do members have suggestions on PE1210?

Nigel Don (North East Scotland) (SNP): I suggest that we write to the Scottish Government, asking what it proposes to do about the law of trust. The petitioner, whom I met a long time ago, was looking for a legal requirement that, when a trust is set up, it is, in effect, reduced to writing so that others can get at it. At the moment, that just does not work in the society in which we operate. If I handed you something and asked you to look after it for somebody else, I would have set up a trust. It might be worth writing to the Government to ask what—if anything—it proposes to do about the law of trust and whether it sees a revision of the law around the corner. That might enable us to form a view on whether there is anywhere we can go on the matter.

The Convener: Okay. Is the committee content to continue PE1210?

Members indicated agreement.

War Veterans (Health Care) (PE1159)

The Convener: The next petition is PE1159, by Mrs S Kozak, on health care of Gulf war veterans. I seek members' views on the petition.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): According to the committee papers, it seems that we have taken the petition just about as far as we can. I am quite happy to propose that we close the petition.

Anne McLaughlin (Glasgow) (SNP): The Scottish Government has set out in its response that it is unable to list all the research on gulf war illnesses because it does not have the expertise, which lies with the Ministry of Defence, whose website changes as new research becomes available. It is suggested that we could ask the Scottish Government to invite the MOD to consider adding the research that the petitioner mentions to its website. Is it possible to close the petition and send that letter at the same time?

The Convener: That is absolutely fine. Is it agreed that we will close the petition?

Members indicated agreement.

The Convener: On behalf of the committee, I pay tribute to the petitioner for raising a very important matter. I commend her dedication and vigour in pursuing it.

Fergus Cochrane, the clerk, says that if we are going to close the petition, we should look at one other factor in closing it. John Farquhar Munro referred to one reason, and Anne McLaughlin gave another, for closing the petition. However, I would be happier—and it would probably be preferable—if we could consider another reason for closing the petition. I do not want the petitioner to think that we have taken the decision to close the petition lightly.

Changes have been made. The petitioner's request regarding members of the public participating in the working group has been facilitated to some extent by the decision to publish the agendas and relevant papers for future meetings. In addition, the provision of an e-mail address will allow members of the public to submit queries and contributions to discussions. I hope that the committee agrees that some progress has been made in that area. It is perhaps not all that we would have liked but, at this stage, it is probably as much as we can expect. Is the committee content with that?

Nanette Milne: There has also been agreement from the Government that, if there were future

plans for a medical alert card for veterans, the option of offering it to veterans would be considered. That is progress as well.

The Convener: Thanks very much. That is helpful in terms of the decision to close the petition.

Befriending Services (PE1167)

14:30

The Convener: PE1167, by Christine McNally, on behalf of Clydesdale Befriending Group and other supporting organisations, is on befriending services. I seek members' views on taking the petition forward.

Nanette Milne: There is a question whether local authorities can financially support befriending services. Some argue that they cannot, whereas the Government clearly thinks that, as a result of the concordat, they can. We should ask the Government to clarify whether councils can, in fact, fund these services and, if so, how it will make that clearer to them.

The Convener: If the Government says that befriending services should be funded, we should ask how that can be done without ring fencing.

Robin Harper: We should also ask whether the Government will encourage local authorities to support the provision of befriending services. Indeed, that question, which was asked on 5 October, remains unanswered. Perhaps the same letter could cover both issues.

John Wilson: The petitioner has helpfully suggested another two questions that we might want to ask the Government: first, whether the impact evaluation submitted will indeed be considered when determining the future direction of "The same as you?" strategy; and, secondly, whether local authorities have a mandate to deliver services that are outwith Government strategies. Responses to those questions would help the committee's consideration as well as that of the petitioner.

The Convener: Are members happy with that?

Members indicated agreement.

Social Rented Housing (Standards) (PE1189)

The Convener: PE1189, by Anne Lear, on behalf of Govanhill Housing Association, is on standards of social rented housing. Do members have any views on how we might take forward the petition?

Cathie Craigie: I suggest that we suspend consideration of the petition until we see whether

the issues raised by the petitioner are covered in the Private Rented Housing (Scotland) Bill.

Anne McLaughlin: It might also be worth writing to the Scottish Government to ask whether it will provide for the petitioner's point about recycling penalty charges that are associated with enforcement being returned to the local authority.

John Wilson: We should also ask Glasgow City Council whether the master plan that it said would be drawn up for the area has indeed been drawn up and to update us on how it will take the plan forward.

The Convener: Are members agreed?

Members indicated agreement.

Permitted Development Rights (Port Authorities) (PE1202)

The Convener: PE1202, by Joyce McDonald, is on removing port authorities' general permitted development rights. I seek members' views on the petition.

Robin Harper: It appears from the information that we have received that the general permitted development rights for port authorities are severely limited to what is required for the purposes of shipping and the development of docks and do not extend to the construction or erection of bridges, hotels and anything else otherwise than wholly within the limits of a dock, pier or harbour. I do not like the idea of unlimited development rights but in this respect the limitations have been fairly clearly set out in the legislation. As a result, I am happy for the petition to be closed.

The Convener: Do members agree?

Members indicated agreement.

A90/A937 (Safety Improvements) (PE1236)

The Convener: PE1236, by Jill Campbell, concerns improving safety measures on the A90 and A937 at Laurencekirk. Mike Rumbles is here to speak to the petition.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The information in the responses that the committee has received is astonishing, particularly in the letter from Transport Scotland.

In 2008, the Minister for Transport, Infrastructure and Climate Change told the Transport, Infrastructure and Climate Change Committee:

"I am extremely familiar with the Laurencekirk junction ... but I repeat that we have to target our safety interventions where the need is greatest."—[Official Report, Transport,

Infrastructure and Climate Change Committee, 16 December 2008; c 1196.]

The argument always was that, if the statistics showed that there was greater need elsewhere, Laurencekirk would have to take its place in the queue. However, the statistics that you have received are quite dramatic in that regard. They show that, on the three junctions between Perth and Stirling, where the transport minister has agreed to build grade-separated junctions, there have been no fatalities in the past 11 years. However, there have been four fatalities on the Laurencekirk junction.

With us today, in the public gallery, we have the petitioner, Jill Campbell, and the father of one of the people who were killed at the Laurencekirk junction.

The minister has previously stated that safety is the paramount concern. However, the statistics that you have received—I commend you for getting them—show that there is clearly an issue of safety at Laurencekirk. The petitioner and I are concerned about the possibility that a genuine mistake has been made. We would like the committee to pursue that issue, perhaps by getting the transport minister to come to the committee to say whether a mistake has been made. The statistics are startling.

Nigel Don: I have to conclude that the numbers in the Transport Scotland submission do not tell the whole story. We need to know what the statistics have been in other parts of the roads around those junctions, because I do not think that the information that we have before us stacks up, as Mike Rumbles has suggested.

The petitioner has submitted a good deal of information about what is happening down the A937 corridor, in Montrose. That is entirely relevant to the issue of the proposed flyover.

Everybody wants there to be a flyover at the junction. The junction is dangerous and we need to do something about it. The only issue is how we get there.

I am setting up meetings with Aberdeenshire Council—with which I am sure Mike Rumbles has had meetings—and am trying to set up meetings with Angus Council to try to sort out what we can do and what pressure we can bring to bear. The one thing that I can bring to the table today is that Transport Scotland has made it quite clear in its submission to the Aberdeenshire local development plan that, as far as it is concerned, there will be no development anywhere near Laurencekirk without a grade-separated junction being part of the proposal. However, again, that is an issue for a later date.

I encourage the committee to keep the petition moving, to seek better information in the context of the submission from Transport Scotland and to try to find out the justification for the current situation. I will be pursuing those angles anyway, as will Mike Rumbles, I am sure.

Nanette Milne: I agree absolutely with what has been said. We need to bring to the minister's attention the fact that the statistics do not stack up with what we have been told so far.

The Convener: Does the committee agree to continue the petition and to try to get to the bottom of some of the statistics?

John Farquhar Munro: We should invite the minister to the committee rather than simply relying on written correspondence.

The Convener: Do we agree to ask the minister to appear before the committee again?

Cathie Craigie: I think that that is the only way in which to get through this. After we have spoken to the minister, we should decide whether we should deal with the matter further or pass it to another committee.

The Convener: Do we agree to the suggestion?

Members indicated agreement.

Same-sex Marriage (PE1239)

The Convener: PE1239, by Nick Henderson on behalf of the LGBT Network, is on same-sex marriage. I seek members' views on the petition.

Anne McLaughlin: I find the issue difficult. I am not particularly religious, I am not married and I never plan to marry, so I am not personally bothered about marriage. However, as I have said, I agree on a point of principle with the petitioner that people of the same sex should be able to have a religious marriage. The petitioner says, "We deserve at least an answer; keep the petition going," but he has an answer—the Scottish Government has said five times that it has no plans to change the law. We waited for the report of the Austrian case, in which the court said that marriage not being available to same-sex couples does not contravene article 12 of the European convention on human rights, which surprises me. The Scottish Government has reiterated that it will not change the law and that such a change would require UK legislation, and the UK Government has no plans to make such a change.

I do not know what to do. I am not sure what else we can do, but I know that the petitioner—whom I support—is keen for the petition not to be closed. I would like guidance on what we can do. The petitioner has asked us to write to ask the Government whether it supports the principle of same-sex marriage—never mind whether it will

introduce it—but I am not sure whether that is what the committee is for. Would it be better to find another way forward, such as encouraging the petitioner to find an MSP who would pursue the matter? I do not see a way forward, unless somebody can tell me what it is.

Robin Harper: I am on the record as supporting the sense of the petition, but I agree that the committee has done what it can. Given the response from the Government and the European Court of Human Rights, we can do no more at the moment. With reluctance, I must say that we should close the petition.

John Wilson: The petitioner raises an interesting point in his letter of 4 November, in which he implies that the Equality Act 2010 will apply in England but not in Scotland, which might lead to major differences between rights under equalities law for lesbian and gay couples in Scotland and in England. I suggest that we keep the petition open and write to ask the Scottish Government whether it has considered the 2010 act—the petitioner says in his letter that the act was an agenda item in his organisation's discussions with Government officials in May—whether it has considered the impact that the act's introduction in England might have on lesbian and gay couples in Scotland and whether it intends to introduce legislation to equalise relationships and bring them into line with those in England.

The Convener: Do we have further suggestions on the 2010 act?

Anne McLaughlin: The 2010 act provides only that same-sex couples have the right to have their ceremony in a place of religion rather than what the petition asks for, which is to have it conducted as a religious ceremony.

The Convener: It would be helpful for the committee to clarify the situation, if we are happy with that. Until we have clarification, we will continue the petition. Is the committee content with that?

Members indicated agreement.

Scottish Courts (McKenzie Friends) (PE1247)

The Convener: PE1247, by Stewart Mackenzie, is on the introduction of the McKenzie friend facility in Scottish courts. What are members' views?

Nigel Don: We have a bit of a success, which we might as well celebrate, if not at any great length. The Court of Session is organised to accommodate McKenzie friends—whether they were accommodated before perhaps does not matter at this stage. The Sheriff Court Rules Council is considering how McKenzie friends will

be introduced in sheriff courts. We assume that all that will happen. I know that the petitioner says that it is a pity that it will take longer for one than t'other, but the result is that we will have got what we wanted, what the petitioner wanted and what is good for Scottish justice.

I would have thought that we can now close the petition. The fact that we are in the sheriffs' hands as they get themselves organised means that we are in good hands.

The Convener: Thank you. Does the committee agree that the petition should be closed?

Members indicated agreement.

Holiday and Party Flats (Regulation) (PE1249)

14:45

The Convener: PE1249, by Mr Stanley Player, is on party flats. What are members' views on the petition?

Nanette Milne: This is another petition that we can legitimately close, given that the Government is to lay a draft Scottish statutory instrument by February next year to amend part 7 of the Antisocial Behaviour etc (Scotland) Act 2004 and make it easier for local authorities to issue antisocial behaviour notices to owners of party flats. That should improve the prospects of anyone who wants to make a court case out of the problems that they have had.

John Wilson: I agree that we should close the petition today, but we should also remind the petitioner that, if he believes that the legislation that is due in February next year does not deal with the issues that he raised in the petition, he has the right to come back to the committee with a follow-up petition. In the past, the committee has closed petitions on the basis of a forthcoming legislative framework but, if the legislation does not then tackle the issues that the petitioner has raised, they have the right to come back to us at a later date.

The Convener: Okay. The Government has also given us the reasons why the Private Rented Housing (Scotland) Bill will not cover holiday lets.

Is the committee agreed that the petition should be closed?

Members indicated agreement.

Medical Negligence (Pre-NHS Treatment) (PE1253)

The Convener: PE1253, by James McNeill, is on compensation for pre-NHS treatment medical negligence. Christine Grahame MSP is with us.

Christine Grahame (South of Scotland) (SNP): Yes, indeed, and so is James McNeill, who has attended every meeting at which the petition has been discussed since it was first heard by the committee on 20 June.

I remind committee members, although they might not need it, that to understand the petition, we have to go back to 26 August 1942, when a child was taken into NHS Highland for X-ray treatment for a simple condition of warts on the hand, which some of us might have had in our childhoods. Instead of being under an X-ray for one to two minutes, he was under it for 20 minutes, with the result that his right hand was burnt almost to the bone. His left hand was damaged too, but his right hand was worse. There is no dispute that there was gross negligence by NHS Highland, but this was another world where medical negligence did not breathe the air—it did not exist. Since then, Mr McNeill has had substantial and regular treatment, with skin grafts and so on over the years. In the 1980s, he had to give up his job with the Forestry Commission due to the deterioration of his hand, and it is getting worse as he gets older.

There appears to be no remedy. Civil action for compensation is no longer available—it is proscribed—so that door is closed. The no-fault compensation scheme, which I know the committee has steadfastly pursued, will not be retrospective, so that door is apparently closed. The Government might argue that, if it does something else, the floodgates will open and it will have set a precedent, but I dispute that. There cannot be many people who would be affected, and there are ways of excluding a resolution from being established as a precedent.

If we were to let Mr McNeill down, I would wonder what on earth we are doing with “justice” and “compassion” on our mace. It seems to me that Mr McNeill has had neither justice nor compassion from the establishment, whoever that establishment has been—and we are now part of it.

I do not know what legal advice the Government has had, but I seek to persuade the committee that the Government should come up with some invention to offer Mr McNeill, at the very least, an apology and some compensation. Nobody in the room today and nobody in the Government is responsible, but the Government has an inherited responsibility to offer an apology to Mr McNeill and a form of compensation, albeit nominal, so that this gentleman can have somebody say that what happened to him was wrong. He is still suffering from it. It might have happened in 1942, but he is living with it now.

I hope that the committee will seek to persuade the Cabinet Secretary for Health and Wellbeing that something ought to be done on the issue.

The Convener: Thank you. I ask for views from committee members.

Robin Harper: Given the evidence that has just been laid before us, I feel that, whether there are two or 200 more people in that situation, it is about time that a precedent was set. We should pursue the issue with the Government until we gain a degree of success. Even if the only result is, as Christine Grahame says, a nominal restitution followed by an apology and an admission of wrong in the past, I would like us to continue the petition.

Nanette Milne: I have enormous sympathy for the petitioner. The case is dreadful. We should write to the cabinet secretary and suggest that she should be willing to meet the petitioner just to chat over the issues that are of concern. That is the least that the petitioner deserves.

Anne McLaughlin: Did Christine Grahame say that the no-fault compensation review group will not consider retrospective compensation?

Christine Grahame: That is correct. That is not within the group's remit.

Anne McLaughlin: Right. The Scottish Government says that it will respond to the committee after it has seen the group's report, but that report will not tackle what the petitioner is asking for, so I do not see the point in that. I agree with the suggestion that we write to the Government to ask it to meet the petitioner and to apologise. As Christine Grahame said, nobody is at fault now, but there is an inherited fault and he should be issued an apology.

The Convener: The petitioner has also raised further issues with the committee on which it would be useful to get the Government's response. Do members agree to the suggestions?

Members indicated agreement.

The Convener: The petition will be continued. I thank Christine Grahame for coming.

Fire (Scotland) Act 2005 (PE1254)

The Convener: The next petition is PE1254, by Mark Laidlaw, on amending section 51 of the Fire (Scotland) Act 2005. I would welcome members' views.

Anne McLaughlin: Announcements have been made recently about looking into ways in which fire, police and ambulance services can merge or work together to protect services to the public and to get better value for money while maintaining the delivery of front-line services, especially in rural areas. That is being given serious consideration,

so it might be worth writing to the Scottish Government to point that out and to ask why the issue that the petitioner raises is different.

The Convener: Okay. Is it agreed that the petition should be continued? My understanding is that, in England and Wales, decisions on the issue have been devolved. I would be interested to find out why that is not the case in Scotland, too.

John Wilson: From the paperwork, it is clear that, in England and Wales, the decision is devolved to local fire chiefs and senior police officers. The Association of Chief Police Officers in Scotland and the Chief Fire Officers Association Scotland have stated to the committee that decisions on the issue should be for constables and chief fire officers to make. The difficulty with that is that we could end up with eight different policies for the eight police authorities and eight fire authorities in Scotland. If we are trying to push for the measure that the petitioner seeks, it would be useful to get uniformity in all police and fire boards. We should remind the Scottish Government that the issue has been devolved to local chief officers in the fire and police services in England and Wales and ask it to either bring us in line with the rest of the UK or come up with good reasons why it would not be appropriate for the same system to operate in Scotland.

The Convener: That is a useful suggestion. There seems to be a fair degree of agreement among the organisations that responded to the committee on the advantages of lifting the restriction. The petition will be continued. Does the committee agree with that course of action?

Members indicated agreement.

Voluntary Sector Mental Health Services (Funding Framework) (PE1258)

The Convener: PE1258, by John Dow, on behalf of TODAY—Together Overcoming Discrimination Against You and Me—is on fairer funding for the voluntary sector. Could I have members' views on the petition?

Anne McLaughlin: Could we close the petition now on the ground that the guidance on the procurement of care and support services sets out the need for contracts for care and support services to be competitively tendered or retendered? The guidance also considers partnership working and states that service providers should be treated as equal partners and should be able to take part in discussions about service provision. I wonder whether there is anything else that we can do with the petition.

The Convener: Is there anything further that we can do?

Members indicated disagreement.

The Convener: Is the committee agreed that we should close the petition?

Members indicated agreement.

Houses in Multiple Occupation (Regulation) (PE1261)

The Convener: PE1261, by David Middleton, on behalf of Sustainable Communities (Scotland), is on the regulation of houses in multiple occupation. Can I have members' views on the petition?

John Wilson: I suggest that we suspend the petition until such time as we know what will come out of the Private Rented Housing (Scotland) Bill. We can then consider the petition further in light of the information relating to the bill.

The Convener: Is that agreed?

Members indicated agreement.

Dairy Farmers (Human Rights) (PE1263)

The Convener: PE1263, by Evelyn Mundell, on behalf of Ben Mundell, is on human rights for dairy farmers. I seek members' views on the petition. Have we had enough information back on it?

Nanette Milne: I think that we should keep the petition open. I am sorry, but it is some time since I read the papers, so I am trying to refresh my memory.

The Convener: I think that it is a matter of whether we have had enough of the information that has been requested back from the Government.

Nanette Milne: I do not think that we have had answers to the questions.

The Convener: Is the committee agreed that we will continue the petition on the basis that we are still awaiting some information from the Government on it?

Cathie Craigie: We need to ask the Government to think again about how it is responding to the questions on the petition. It seems to be skipping round the questions in its answers. We have to let it know that we are a bit frustrated that its answers are not assisting the committee or the petitioner and are not enabling us to move forward.

Nanette Milne: It would also be useful to know whether the Government has any plans for the ring-fencing mechanism that is attached to the management of milk quotas.

The Convener: Yes, and I think that the petitioners have some additional questions. Is it agreed that we take the petition forward?

Members indicated agreement.

Freight Trains (Overnight Running) (PE1273)

Rail Noise and Vibration (Larbert) (PE1302)

15:00

The Convener: The next two petitions will be taken together, as they both deal with the overnight running of freight trains. The first is PE1273, by Anne Massie, and the second is PE1302, by Colin Sloper.

Dr Simpson: The committee has received a reply from the minister that, I am afraid, does not really take us much further. Some fundamental questions still have not been answered. The core question is whether the Scottish Government is unable to protect its citizens from the inappropriate noise and vibration that are created by freight trains. It appears that everybody is still passing the buck from A to B and nobody is prepared to take any responsibility.

The only advance is that at least we now have the survey reports on the houses, but even those are not complete. It is a considerable time since PE1273 was lodged, and the petition is only the latter part of a campaign that has been going on since the night trains started running. There are still vibration tests to be carried out on a number of properties, so the whole process has not yet been completed.

I hope that we will keep the petition open until somebody is prepared to take some responsibility for protecting our citizens against this sort of noise, especially given the fact that the committee that originally scrutinised the Stirling-Alloa-Kinross Railway and Linked Improvements Bill was misled in the way that it was. I have been in front of this committee before, and I do not want to repeat all the issues, but the fact remains that the number of paths—that is, the number of journeys by trains—that are being run today is no greater than the number that were supposed to be run between 07:00 and 11:00 according to the original impact report.

The question is, why are night trains having to be run now that were not being run before? The excuse that is given, mainly by Transport Scotland, is that the impact report was compiled when the trains were being run across the Forth bridge. At the time, the company, DB Schenker—English Welsh & Scottish Railway as it was—did not make an application for night-time running. It did that only once the bill had been passed and everything was in position. At that point, it must have known jolly well that Network Rail could not deny it the right to run the trains on the track as long as it was safe to do so. No one asked whether the citizens were going to be affected.

Who was protecting the citizens in that situation? If we in Scotland do not have the power to do that, the Government should state clearly that any new rail line that is opened up—and several new lines are being considered—must take the effect on the citizens into account in a way that it is not being taken into account at present.

I am sorry if I get a little passionate about the issue, but we are being pushed from one side to the other. Everyone says, “We’re not responsible.” No one is prepared to take responsibility. Frankly, I would like the minister to come before one of the parliamentary committees to answer some tough questions that he has, so far, not been prepared to answer and to commit to either providing compensation or, better still, trying to stop the night trains running. He has not followed through on any of the things that we asked him to.

Cathie Craigie: I think that we should continue the petition, perhaps through the usual channels, if the committee clerks have any usual channels in the civil service. The tone of the minister’s letter is not good. It does not take seriously the points that have been raised. Public servants should be willing to meet residents, and the people concerned deserve a meeting. I understand that the whole issue of the night-time running of the trains came up during the initial discussions on the bill that created the railway. At that time, people felt that there was going to be no night-time running of trains. We must find out whether there is anything in legislation that we can use to improve the position. As Richard Simpson said, the present number of journeys is no greater than was expected; it is the night-time running that is the problem. If there is anything at all in the legislation that can be used, we should encourage the Government to use it.

Nanette Milne: I agree. We should get back to the minister and once again encourage him to have a meeting with interested parties on the various issues that have been raised this afternoon. If he will not agree to that, perhaps we should take up Richard Simpson’s suggestion of inviting him before the committee again.

The Convener: We have already taken a decision to invite him along to a meeting to discuss the Laurencekirk junction. I find it a surprise that he has not agreed to meet the petitioners. It strikes me that we should also invite representatives of Network Rail to come along.

Robin Harper: I have a question for Richard Simpson. A third option has been discussed—if it is not an option as such, at least it is something that would help, both during the day and at night. I am talking about upgrading the wagons to ones that make less noise. Has anybody discussed with Network Rail the proposition of a differential tariff, whereby it could charge more for using the old-

fashioned, noisy and damaging rolling stock, compared with the more modern rolling stock?

Dr Simpson: The issue has been raised with Network Rail. It carries out wheel checks, and as long as the results come within the tolerance limits of the check system, approved rolling stock can run until it is worn out or fails to meet the checks. The cost of replacing the slightly older large freight train wagons would be quite considerable, I gather.

We have made many proposals to the minister. For example, we have suggested that, if not all the paths across the Forth bridge are being used, some of them should be used to take enough trains off the Alloa line to remove the need for night running. We discovered in the summer that the overstocking of coal at Longannet was such that the trains going there were stopped altogether for a number of weeks. The night trains should have been stopped for longer, but that was not done, and it was never discussed with anyone.

My constituents are being treated with total disdain by the whole system, and they are extremely angry. I do not get angry all that often, but I am very angry on their behalf.

Nigel Don: The third paragraph on the second page of Stewart Stevenson's letter says:

"The Scottish Government has no power to control the operation of rail freight services."

I do not doubt that that is true—in black and white. If the Scottish Government has no power in that regard, presumably—to take Richard Simpson's point—the UK Government does.

Dr Simpson: We are in fact talking about a UK organisation that is based in Leeds. The train operator applies to Network Rail for the right to use the line according to a certain timetable. Network Rail determines whether it is safe, and the application goes forward to the rail authority, which will say yes, it looks like it is okay and safe. However, nobody in the system seems to take into account the effect on citizens, as long as the noise regulations are not broken—and those noise regulations do not apply in Scotland. Retrospectively, we have a real problem.

Nigel Don: That starts to clarify my thinking on the matter. I am not the slightest bit surprised to hear that the operation of the railway is effectively reserved. You are telling me, however, that the noise regulations that the UK Government introduced at some point in the past do not apply to Scotland anyway.

Dr Simpson: Yes.

Nigel Don: But we do not have any noise regulations ourselves. Is that because the subject

is reserved, or is it because we have chosen not to generate any such regulations?

Dr Simpson: I cannot answer that. It might be worth asking.

Nigel Don: I suggest that that is a fundamental issue, which we should perhaps have resolved some time ago—although it has only just sprung to my mind. If there is no legislation and we do not even know who should legislate, in the general sense of the word, we should explore that issue.

The Convener: Yes. It seems that we need to clarify that.

Dr Simpson: There is an additional complication in that respect. Since the original regulations were made, the World Health Organization has uprated its recommendations on noise by a considerable degree. The tests that were carried out last year did not take into account those new WHO recommendations, which are much stricter than the previous ones. The WHO's view of the damage that is done to people's health is illustrated on the Alloa railway.

The Convener: We have noise regulations in Scotland, but we need to clarify the ones that apply specifically to rail noise.

John Wilson: If we are going to continue the petition, I want to throw in another couple of questions. I want to ask the Scottish Government if it still operates the rail freight subsidy for taking freight off the roads and putting in on to rail. There is a contradiction in applying the Government's rail freight subsidy if the minister is saying that he has no control over the movement of freight along Network Rail lines.

Secondly, we could ask Network Rail whether the night-time running of freight trains, particularly those carrying coal, is due to problems that occur further down the line. Freight is competing with passenger transport. The freight that is the subject of the petition travels from Hunterston deep-sea port all the way up to Kincardine, and it goes through part of Cathie Craigie's constituency on the Cumbernauld line. It actually goes past my door at various hours of the morning as well—

Cathie Craigie: You are not getting a station at your door.

John Wilson: I do not want a station at my door, Cathie. You are talking to the wrong MSP about that.

Has Network Rail decided to allow that freight to be moved at those times during the night because of congestion on the railway lines during the day? The freight has to compete with passenger transport from Falkirk through to Glasgow and Motherwell, and I know how long some of the level

crossings have to be closed to allow that train traffic to go through during the day.

Dr Simpson: May I clarify that point?

The Convener: It would be useful if you did, if the committee agrees. Perhaps you could suggest an appropriate way forward. The committee is keen to carry on with the petition, but we seem to require some additional information about noise regulation. It might be useful to ask Network Rail to come along to the committee with the petitioners. Perhaps Richard Simpson could suggest something else.

Dr Simpson: I suggest that the committee asks Scottish Power as well. We all want to see growth in passenger transport with increased timetables, such as we see with the very welcome new passenger rail line in my former constituency of Alloa. Like John Wilson, I thought that such new lines were creating choke points, but we have discovered that the choke point is at Longannet. Scottish Power directors have told me that they cannot guarantee to turn the trains around in less than two hours. It does not take a brilliant mathematician to work out that if 12 trains are going up and down the line in one day, that is 23 paths a day, and it can never be done in daytime hours. This committee and Parliament were shown disrespect by a failure of the system to provide adequate information when we were passing the bill. If this was the House of Commons, that would be considered contempt. Contempt was shown to this Parliament when Transport Scotland did not clarify the issue in getting Clackmannanshire to promote the bill. Those trains could never have run in and out of Longannet during the day.

Can Scottish Power turn the trains around more quickly by using a different offloading system? I cannot get an answer to that question. Perhaps the committee could help by getting Scottish Power in and asking whether resuming daytime running is simply a matter of investment, which it is not prepared to make—although the Government could make the investment, if it was concerned about the citizens—or whether we would still be left with the problem of choke points on the passenger line. No one is taking a grip of this issue in the Government. It is being allowed to drift, and we are being treated with utter contempt.

The Convener: Thank you. The committee has agreed to continue with the petition, but we need to decide who we want to come before the committee. Would it be useful for the minister to be part of that discussion? He is going to be coming to the next committee meeting anyway.

Robin Harper: Could we have a representative from Scottish Power to clarify the issue that has just been raised?

Nigel Don: Yes, that is the point. We also want to talk to someone who knows what to do with trains. This is about offloading wagons and so on. I have done it, and we need to talk to someone who knows what they are doing.

The Convener: We will invite Scottish Power, Network Rail and the minister.

Members indicated agreement.

The Convener: We will also ask the petitioners; it is important that they come before the committee next time as well.

Geodiversity Duty (PE1277)

15:15

The Convener: Our next petition is PE1277, by Mike Brown, on a geodiversity duty. I seek members' views on the petition.

Anne McLaughlin: This is yet another petition for which we are waiting for a study that it seems will never be published. We suspended our consideration of the petition on 9 February because we were waiting for the publication of the joint study by the British Geological Survey and Scottish Natural Heritage that was going to establish the evidence base for a geodiversity framework for Scotland. We do not have the study and we do not know when we will—unless it has been published this morning and we do not know about it yet. The petitioners do not have that study either. I think that we should suspend the petition until we have the study, because we can do nothing until then.

However, the submission from the British Geological Survey recommended that

“all Scottish site investigation records should be legally required to be deposited with the BGS to ensure their preservation for the long-term public good, as currently happens in Northern Ireland.”

That seems like a good idea to me. I suggest that we ask the Scottish Government whether it will act on that recommendation. If it does not think that it should, we should ask it why not. However, I think that we should suspend consideration until we get the study.

The Convener: It might be worth finding out whether the Scottish Government agrees with the benefits of having a geodiversity duty, as identified by Scottish Natural Heritage. The committee has agreed to suspend the petition and write to the Government on those two points.

NHS Translation and Interpretation Services (PE1288)

The Convener: The next petition is PE1288, by Dr Godfrey Joseph, on behalf of Multi Ethnic

Aberdeen Ltd, on improving NHS translation and interpretation services. What are members' thoughts on the petition?

Nigel Don: This is another petition that we need to suspend. I recall that we said the same thing the last time that we looked at it. We are waiting for work to be done by the Government on a long-term project that examines the issues, so we need to await the outcome of that work.

The Convener: Is that agreed?

Members *indicated agreement.*

Safe Guardian Law (PE1294)

The Convener: The next petition is PE1294, by Allan Petrie, on safe guardian law. Can I have members' views on the petition?

Robin Harper: It would be safe to close the petition. New guidance on looked-after children has been issued to all local authorities. In 2009, Her Majesty's Inspectorate of Education produced a favourable report on the protection of children. The Scottish Government has accepted that there is no room for complacency, which is useful. Under the looked-after children regulations, kinship carers are recognised as a separate category, and in emergency situations prominence is given to them when considering child placements. On that evidence, the petition can be closed. The further questions that the petitioner would like to be asked would not assist the further progress of the petition.

The Convener: Is that agreed by the committee?

Nanette Milne: Reluctantly. The petitioner has suggested that we should move from a family-first approach to a child-first approach. If we are to close the petition, I would like to make that plain to the Government. Kinship carers do not feel that that is always the case. Alternatively, we could keep it open until we get an answer from the Government.

The Convener: We could ask the Government that specific question, if you prefer.

Nigel Don: First of all, I point out that I have known Allan Petrie for a while. He makes a fair point that if one thinks that, in general, it is better for a child to be with family members than with non-family members, the options for the child to stay with the family should be explored as soon as possible—in other words, as soon as one thinks that there might be an issue. It is not entirely clear to me the extent to which that would be a modification of current proposals, but it seems to make sense for people to explore such avenues. As I recall, the implication is that that is not necessarily how things are working, and I would

be interested in knowing whether the Government thinks that that is the right way of proceeding.

The Convener: The length of time taken to make a decision is not always in the child's best interests. I know that in the United States—although I am not sure in which states—there is a time limit on making a decision about the child.

Two suggestions have been put forward. What do other members feel?

Robin Harper: If the committee wants to continue with the petition, I would be happy to ask the Government those two questions. However, I have a word of caution. For many years now, the children's hearings system has worked very effectively and well in the interests of the child. Although we should look at certain welcome new developments that support the family as well as the child, putting the family first reverses the way in which the children's hearings system works and, indeed, the Kilbrandon report's recommendations. I certainly do not think that that is the sense behind the Children's Hearings (Scotland) Bill. In fact, the more I look at the petitioner's response, the more I think that his suggestion of moving

"from a 'family first' approach ... to a 'child first' one"

actually reflects how the children's hearings system works.

The Convener: It would do no harm to seek clarification from the Government on those points and then bring the response back to the committee. Are members happy with that?

Robin Harper: Yes. Certain issues need to be clarified and discussed.

The Convener: Okay. Thank you for that.

Low-dose Naltrexone (PE1296)

The Convener: PE1296, by Robert Thomson, on behalf of LDN Now, is on the availability on the NHS of low-dose naltrexone. Do members have any views?

Anne McLaughlin: When, some time ago, the petitioners gave evidence to the committee, I was really interested in this petition. I have to say that I thought that it would be of more interest than it seems to have been. I know that the Government has met the petitioner, but he has said that, although the meeting was positive, nothing seems to have happened. Given the potential to use lower-cost medicines at a time when our funding from Westminster is being dramatically cut, I would have thought that it would have been in our interests to investigate the matter.

I understand that it would not necessarily be for the Scottish Government to carry out the research, but in his response the petitioner asks a couple of questions that it would be worth asking the

Government. First, he wonders how the Government can

“assist patients and patient groups to contact researchers and get them interested in LDN research”

and

“how to best deal with situations where they arise”.

Although, as a research prospect, the issue might not be financially interesting to medical companies, it should at least be interesting from a public health perspective, and the petitioner wants us to ask the Government how we might get around that. For example, an individual MSP might take up the issue. After all, we cannot simply allow drugs companies to investigate only drugs that will make them a whole load of money.

The petitioner's other question relates to how general practitioners might be better educated about LDN. I suppose that the Government will say that we need to wait until research has been done, but the big question not just on LDN—the evidence on which I was very taken with—but on other drugs that might be less profitable for drug companies is how we can get the research done. Could the Government assist with that by putting the petitioners in touch with people who might do the research for them, even if that might not be something that it would normally do?

Nigel Don: I endorse everything that Anne McLaughlin has just said. The question that comes up is almost philosophical, and Governments are not very good at philosophy. The Justice Committee often bumps into the question of how to deal with two conflicting High Court decisions that no one has ever appealed against. There should be a mechanism for someone somewhere to appeal in such cases so that we know what the law is. The same applies here. Plainly, there is some research that could be done that could be hugely beneficial to patients and to the Government, but it will not be done by the normal people, who look to make a profit out of such work. The Government needs to get its mind around how we should deal with a situation in which the normal, economic ways of operating will not give us the right answer. The Government needs a solution.

The Convener: It is a big issue.

Anne McLaughlin: I would like to suggest one more thing—that we ask the Government for the action points from its meeting with the petitioner, which I understand we have asked for and not received. There is no point in the Government agreeing to meet petitioners just to pacify them or in coming away from such meetings and not doing something about the issue. That is extremely important, so I would like us to ask what the action points were and when they will be carried out.

The Convener: Okay. It is agreed that we will continue with the petition on those terms.

Charities Funding (PE1304)

The Convener: PE1304, by Kathleen Bryson, on behalf of the Lighthouse Foundation, is on safeguarding the funding of charities. I invite members' thoughts on it.

Nanette Milne: I am not sure that there is more for the committee to do on the petition. The circumstances that gave rise to it have changed significantly over the months. The issues are for Lloyds Banking Group and the Lloyds TSB Foundation for Scotland to resolve. It is clear that the Government has a commitment to the third sector. I cannot think of anything else that it would be useful for the committee to do, so I suggest that we close the petition.

The Convener: Is that agreed?

Members indicated agreement.

Male Victims of Domestic Abuse and Violence (PE1307)

The Convener: PE1307, by Alison Waugh and Jackie Walls, is on male victims of domestic abuse. What are members' views on it?

John Wilson: I suggest that we suspend our consideration of the petition until the Scottish Government concludes the process of deciding how it intends to address the issue of male victims of domestic violence. Recent domestic violence surveys in Scotland show that 15 per cent of victims of domestic violence are males. The petition has highlighted the campaign that was started more than a year ago to indicate that the issue is a growing problem in wider society. We must hope that the Scottish Government will come up with strategies that help to address it and which put male victims of domestic violence on an equal footing with female victims.

The petitioners have raised a number of questions in relation to the Government's responses, which it would be useful to put to the Government. I hope that we will be able to make progress with the petition once we get the Government's report.

The Convener: It has been suggested that we suspend our consideration of the petition. The Scottish Government will provide an update by March, so would it be sensible to suspend our consideration of the petition, seek further information on it and come back to it after March?

Members indicated agreement.

Medal Awards (PE1312)

15:30

The Convener: PE1312, by William Leitch, calls for an investigation into the medal awards system for the 1949 Yangtze campaign. I seek members' comments.

Robin Harper: I think that we have good reason to defer consideration of the petition until the next meeting, to allow the late letter from the Ministry of Defence to be considered by the petitioner. I know that there will still be an argument about evidence. The MOD says in its letter:

"Under the provisions of Public Records legislation, official records of this vintage will have been reviewed and either selected for permanent preservation and transfer to the National Archives or otherwise destroyed."

I think that there is other evidence, to which our petitioner would like to draw the MOD's attention.

The Convener: The suggestion has been made that we defer consideration of the petition until we get more information.

Nanette Milne: Is the letter that has been tabled not the letter that we are waiting for?

The Convener: The difficulty is the timescale—it came in very recently. That is why it would be useful to allow a bit more time for it to be considered.

On that basis, are members happy for us to defer our consideration of the petition until the next meeting?

Members indicated agreement.

Birds of Prey (Illegal Killing) (PE1315)

The Convener: PE1315, by Stuart Housden, on behalf of RSPB Scotland, is on the illegal killing of birds of prey. I seek members' views.

Nanette Milne: I propose that we close the petition, particularly as the petitioner is content for it to be closed, on the basis of the response from the Scottish Government and the inclusion of vicarious liability measures in the Wildlife and Natural Environment (Scotland) Bill. The petition has achieved its aim.

The Convener: Is the committee content to do that?

Members indicated agreement.

The Convener: Does the committee agree to take a 10-minute comfort break?

Members indicated agreement.

15:32

Meeting suspended.

15:41

On resuming—

Youth Football (PE1319)

The Convener: Let us get started again. We have a significant number of petitions to get through.

PE1319, by Scott Robertson and William Smith, is on improving youth football. We have had a communication from Trish Godman, saying that she fully supports the petition and recommending that the committee continues its investigation. She points out:

"The recent response received from the Scottish Child Law Centre raises similar concerns to those already highlighted by the STUC and the Scottish Commissioner for Children and Young People ... However, it is clear there is still an information gap with regards to the written responses received. I think that Committee members can get a more detailed picture by speaking directly to those involved with the current system and those at the top of Scotland's professional game."

I seek members' views on the petition, after which we will come to Trish Godman's suggestion. Should we continue the petition?

Nanette Milne: We should, convener, as we do not have the answers to the questions.

The Convener: That is true. There seem to be other questions that need to be asked. Do we want to hold an oral evidence session?

Members: Yes.

The Convener: Okay. Trish Godman has suggested that the committee invites Martin Bain, the chief executive of Rangers Football Club, Peter Lawwell, the chief executive of Celtic Football Club, the chief executive of the Scottish Premier League and the chairman of the Scottish Football Association. Do members have any other suggestions as to whom we might invite to give evidence?

Anne McLaughlin: Who wrote the response from the SFA? Did it come from the chief executive? I would like to say that it is helpful, but it is not at all helpful. In answer to question 1, it states:

"We are unaware of the content of all of the evidence previously provided to the Committee"—

although I know that the clerk has given it all that evidence or a link to it—

"so we have no knowledge of where the term 'Football Review Group' arose."

In answer to question 2, on the criteria that were used to decide the membership of the group, it states:

"As there is no 'Football Review Group' this question is redundant."

In answer to question 3, it states:

"This question is also to a large extent redundant."

That will be a very interesting evidence session. Whoever wrote that response should be invited to come along and represent the SFA.

The Convener: Are there any other suggestions?

John Farquhar Munro: Somebody from sportscotland.

15:45

Cathie Craigie: Why did Trish Godman suggest that we invite representatives from Celtic and Rangers?

The Convener: She says that Martin Bain of Rangers

"has publicly criticised the current system of registration and transfer of youth players."

Trish Godman has also met the chief executive of Celtic, who has raised concerns about the system that is currently in place in Scotland. It would be useful to get in representatives of big clubs so that we can hear their views. Would it be useful to invite the minister to that evidence session?

Anne McLaughlin: I suggest that we also invite Scotland's Commissioner for Children and Young People.

The Convener: That would be useful, given the topic.

Anne McLaughlin: The evidence that he gave previously was interesting. It will be useful to have him at the meeting, so that we can at least attempt to have the issue taken seriously.

The Convener: The committee agrees that it would be useful to get people around a table to take forward the petition, which will be continued.

Planning Circular 3/2009 (PE1320)

The Convener: PE1320, from Douglas McKenzie on behalf of Communities Against Airfield Open Cast, is on amending planning circular 3/2009. As the MSP for Midlothian, where the petitioner comes from, I suggest that we continue the petition, which is specifically about the role of neighbouring local authorities when there is a planning application of significance. We need more clarity on the issue, especially in view of the support that the Royal Town Planning

Institute in Scotland has expressed for the petitioner's proposal.

Members indicated agreement.

Gypsy Traveller Sites (PE1321)

The Convener: PE1321, from Lynne Tammi, on behalf of members of the Young Gypsy/Travellers' Lives Project, is on the management of Gypsy Traveller sites.

Anne McLaughlin: I suggest that we close the petition. We asked the Government to reiterate that the powers that are available to local authorities and the police, including under the Trespass (Scotland) Act 1865, to manage unauthorised camping by Gypsy Travellers should be used only as a last resort. It has done that. The Government has also reiterated that it will not refer to the 1865 act in the site management guidance that is under review and that it

"would welcome the involvement of the Young Gypsy/Travellers' Lives Project members."

It also says that the Gypsy Traveller community is part of its review of all site management guidance.

The Government has made the case for its decision not to remove references to the Trespass (Scotland) Act 1865 from its unauthorised camping guidelines or future guidance, but it has said again that the 1865 act should be used only as a last resort. It states that, in its view,

"The provision made by the 1865 Act does not ... breach the rights that Article 30 of the UNCRC gives to children."

For those reasons, I think that we have gone as far as we can. We have got some satisfaction from the process, so it is time to close the petition.

Nigel Don: I concur. Many other things are happening in the area; we have before us petitions on other particular issues, and there are some wider issues. We have completed consideration of the petition, which addresses a specific point. If there were no related petitions before us, we might want to look at wider issues, but we have the opportunity to do so when considering other petitions. I suggest that we close PE1321.

The Convener: The Government says that it would welcome the involvement of members of the Young Gypsy/Travellers' Lives Project in its review of site management guidance. It might be worth while to find out whether that has happened, although I agree that it is time to close the petition.

Nigel Don: I suggest that we clarify with the Government its interaction with the travelling community at present, although perhaps we cannot do that if we close the petition. I know that the interaction is significant, because I am involved in part of it.

However, we could just close the petition and not worry about that. There is significant involvement, and that will appear in other petitions, which I am sure that we will get very soon.

The Convener: Yes. We will close the petition, and state that it would be useful if the Government followed up on its commitment to involve the Young Gypsy/Travellers Lives Project and the Gypsy Traveller community.

Dance (Schools and Colleges) (PE1322)

The Convener: PE1322, by Jacqueline Campbell on behalf of the residential provision parents group, is on dance teaching and coaching in schools and colleges. What are members' thoughts on it?

John Farquhar Munro: I do not agree that we should close this one, convener. We should continue the petition and write to the local authority to ask it why it is not funding the project, which is of national benefit to Scotland. The funding for those organisations was ring fenced, but that has changed of late. The local authority is a bit reluctant to continue funding as it did in previous years. Can we find out from it why that is the case?

The Convener: Does the committee agree to continue the petition on that basis, and to contact the local authority to ask what its position is on funding?

Nanette Milne: I thought the petition had achieved what it set out to do, as the Government has stated its commitment to ensuring the viability and future of dance teaching and coaching through a national centre of excellence and the continuous provision of support funding. I do not know whether that is accurate or not.

Anne McLaughlin: A number of MSPs—including Bill Butler, who is not here today—have been asked to do certain things. I met the parents and went along with them to a meeting with Scottish Government officials. A number of councillors, rather than MSPs, are now taking the issue forward.

I am aware that the petitioners do not want us to close the petition. Did they respond to us? I cannot find the correspondence that tells us on what grounds they think it should continue.

While I continue to support what they want to achieve, I am not sure that the Public Petitions Committee is the place to do that. The route that they have taken recently is more appropriate.

I do not see anything from them here in further evidence—

The Convener: Sorry—there is another document labelled PE1322/F, which is a late

submission. I know that members have dealt with a deluge of submissions, so I propose that we keep the petition open and, if members agree, defer consideration of it to the next committee meeting.

Members indicated agreement.

Shia Muslims (Community Centres) (PE1323)

The Convener: PE1323, by Syed Ali Naqvi on behalf of the Scottish Shia Muslims, is on community centres for Scottish Shia Muslims. Can I have members' thoughts on the petition?

Anne McLaughlin: We took evidence from the petitioners some time last year. My understanding is that the petitioner has not communicated with the committee on any occasion since the petition was first considered. We can only assume that the petitioner is satisfied or does not want to press the petition, so I suggest that we close it.

The Convener: Yes, it is my understanding that, under rule 15.7 of standing orders, if the petitioner has not submitted any communication to the committee on any occasion since the petition was first considered, the petition will be closed.

John Wilson: I congratulate the Muslim Council of Scotland on its response to the petition, and particularly the Shia representatives for the response in their meeting. It is quite worrying that that response indicates that the representatives were not aware of the people who submitted the petition. Given that the petition refers to Shia communities throughout Scotland, perhaps a note of caution should be sounded to the committee and the clerks about petitions that are submitted on behalf of communities that the petitioners claim to represent.

The Convener: We will close consideration of the petition.

Compulsory Purchase (Derelict Properties) (PE1326)

The Convener: PE1326, by Moyra Beattie, is on improving the compulsory purchase of derelict properties. Can I have members' comments on the petition, please?

Cathie Craigie: We need to continue it. We need to seek an update from the Government on the compulsory purchase advisory group's consideration of responses to it. We all know that there are difficulties in the area and we would like to keep the door open until we hear from the Government.

The Convener: Do members agree that we should continue the petition?

Members indicated agreement.

Emergency Services (Rural Patients) (PE1327)

The Convener: PE1327, by Maria Murray on behalf of Asthma Support in Rural Scotland, is on helping the emergency services to save at-risk patients' lives. Can I have members' comments on the petition, please?

Nanette Milne: I support the petition and I am not sure that it has yet achieved what it set out to do. Concerns about confidentiality have been expressed, but I know how things are done and cannot see that that is a particular issue.

There has been strong support for the project from a number of fire and rescue and ambulance services and some NHS boards. We have contacted the Government, but we should get back to it, particularly on encouraging GP practices to make patients aware of the system. It is clearly explained to patients that they will not go on to the system unless they have given their consent. We could explain a bit more to the Government that it is a genuine project that is of significant help to people in remote and rural areas who may be faced with emergency health situations when the ambulance and fire and rescue services cannot easily locate them.

The Convener: So members are interested in supporting and getting information out to vulnerable people, and in getting the Government's views on that. Are members happy with that suggestion?

Members indicated agreement.

The Convener: We will continue the petition.

Wind Farm Developments (PE1328)

The Convener: PE1328, by Jack Farnham, is on siting—not "sitting", as my briefing says—wind farms too close to residential properties. Can I have members' comments on the petition, please?

John Farquhar Munro: Is the petition linked to our previous decision to get information from Holland on a decision that has been taken there? That could be tied to this petition.

Nigel Don: I was going to say that the connection is tangential, but that would be geometrically wrong. It is clear that turbines generate their own pylons in their radial.

The petition asks a specific question and it has received a specific answer, albeit not the answer that the petitioners wanted. However, we have been there before. The Government has provided reasons why it will not guarantee the application of a minimum separation distance of 2km between a wind farm development and any dwelling. Planning advice note 45 makes noise measurement an integral part of the environmental

impact assessment process for wind farm applications, and there is academic evidence that no health effects result from the sound that might be generated. Given those facts, I am not sure that there is much more that we can do with the petition.

The Convener: The key point is that this petition is specifically about wind turbines, whereas the evidence that was referred to earlier was on pylons. It would probably be sensible to follow Nigel Don's advice. It is hard to see how the committee can take the petition forward. Does the committee agree to close the petition?

Members indicated agreement.

Adults with Incapacity (Scotland) Act 2000 (Role of Public Guardian) (PE1329)

16:00

The Convener: PE1329, by Robert Adamson, is on the public guardian's responsibilities under the Adults with Incapacity (Scotland) Act 2000. Can I have members' comments on the petition?

Cathie Craigie: There may be some merit in continuing the petition. It is obviously something that has concerned the petitioner. Alzheimer's Scotland says that it does not believe that a change in the law is required. The Law Society of Scotland agrees with the current law, but it has raised some concerns, so we should continue the petition and communicate with the Government to find out whether it feels that there needs to be a review of, or other consideration given to, whether the relationships in the original issue are still relevant.

The Convener: The petitioner has also raised some issues that it might be useful to seek clarification on. Does the committee agree to continue the petition?

Members indicated agreement.

Parkinson's (Medication) (PE1331)

The Convener: PE1331, by Tanith Muller on behalf of Parkinson's UK, is on Parkinson's medication and the need to

"get it on time, every time".

Can I have members' comments on the petition?

Nanette Milne: Quite a lot has been achieved on the back of this petition. For example, the Government has taken several actions, national health service boards are reviewing the situation and NHS Quality Improvement Scotland is commencing a review of all NHS boards with regard to performance against clinical governance and risk management standards. I am not sure

whether we are entirely there yet, so I suggest that we continue the petition for a short time. We can at least write to the Scottish Government and ask whether it would meet the petitioner to discuss some of the issues raised in the petition and those that were set out by Parkinson's UK in its letter of 15 November.

The Convener: Does the committee agree to continue the petition and to ask the Scottish Government whether it will meet the petitioner to discuss the issues?

Members indicated agreement.

Suspicious Deaths (Investigation) (PE1332)

The Convener: PE1332, by Guje Börgesson, is on investigating deaths in suspicious circumstances. Can I have members' comments on the petition?

Cathie Craigie: We should continue the petition and write to the Crown Office again, because further issues have been raised following its response. It would be worth while putting those back to the Crown Office and getting clarity about what it means.

The Convener: Are members happy with that?

Members indicated agreement.

Gypsy Travellers (Council Tax) (PE1333)

The Convener: PE1333, by Shamus McPhee on behalf of the Scottish Gypsy and Traveller law reform coalition, is on disadvantaged Gypsy Travellers and members of the settled community. Can members suggest how to take it forward?

Anne McLaughlin: We should continue the petition. There are a number of questions that we could ask the Scottish Government. Primarily, we can ask it what the timescale is for reviewing the guidance on local authority Gypsy Traveller site management. I do not know whether the petitioner has been included in the review, but if not we can ask the Government whether it would be prepared to include him. He does, after all, represent the Scottish Gypsy and Traveller law reform coalition, so he represents a body of people with an interest in the matter. We can ask the Government what specific aspects of the review will cover the issues raised in the petition.

I also draw the committee's attention to the submission from the Equality and Human Rights Commission, part of which states that there have been cases in which

"the supply of such facilities to the site is either unsatisfactory or not evident at all"

for people living on some local authority sites. I suggest that we write to the commission to ask it to present any evidence that it has to the Scottish Government. That would be of interest to the Government—it is something that should be of interest to us.

The Convener: Does the committee agree to continue the petition and follow those suggestions?

Members indicated agreement.

Wild Salmon and Sea Trout (Protection) (PE1336)

The Convener: PE1336, by Lawson Devery on behalf of the Salmon and Trout Association, is on saving our west Highland wild salmon and sea trout. What are members' thoughts on the petition?

Robin Harper: As we have a series of further questions from the petitioner, I would be happy for the committee to continue the petition.

The Convener: Okay, we can ask further questions.

Nanette Milne: There is clearly a complete divide between the Salmon and Trout Association and the Scottish Salmon Producers Organisation. I am not sure that the divide is bridgeable, but I support taking the petition to the next stage to get further answers.

Nigel Don: I was going to say precisely that, and that there seems to be a significant gulf between the east and west coasts. I do not understand it from what I have read so far, and I would certainly like to understand it. If somebody could explain to me why things are done differently, that would be a good starting point.

John Farquhar Munro: There is sufficient evidence to suggest that this year the east coast has enjoyed first-class fishing of salmon and sea trout whereas it has been almost non-existent on the west coast. The evidence suggests that that is because of the proliferation of fish farming. The fish farming industry is now moving into deeper waters, so we maybe have a solution.

The Convener: It is an issue on which there are differing views, and it could be useful to seek further information specifically on the difference between the east and west coasts—to ensure that we have the most up-to-date evidence on that—and to ask the Government some further questions that the petitioner has set out. Is that agreed?

Members indicated agreement.

Nigel Don: I note that this is a subject in which we cannot afford to have a petition that runs for

the next five years. Given the life cycles of the fish, if there are real issues we need to sort them out. It is no good twiddling our thumbs, because the fish will not come back.

The Convener: Thank you for that. The petition will be continued.

Public Bodies (Accountability) (PE1337)

The Convener: PE1337, by James Campbell, is on public accountability to third parties in the private sector. What are members' views on the petition?

John Wilson: I suggest that we continue the petition and forward to the Scottish Government the further questions that the petitioner has raised to seek its views and responses on them.

The Convener: Is that agreed?

Members indicated agreement.

Free Bus Travel (Night Services) (PE1338)

The Convener: PE1338, by David MacKay, calls for no night bus surcharges for seniors. What are members' views on the petition?

Cathie Craigie: We should just close it in light of the correspondence that we have had from the petitioner.

The Convener: On the reasons for closing the petition, I note that Transport Scotland and FirstBus have confirmed that there are many services that operate around or after midnight on which normal daytime fares apply. Transport Scotland has confirmed that extending the scheme, including the type of services eligible for free bus travel, was considered as part of the review and that it was concluded that services that charge fares significantly above the normal amount—for example, night services at a premium fare—should continue to be excluded. What are other members' views?

Anne McLaughlin: The most important reason for closing the petition is that Age Concern Scotland—I think that it is now called Age Scotland—has said that it would not be appropriate to extend the scheme to cover night services without there being a study to provide evidence that it currently limits opportunities for older people to access shops, attend medical appointments and so on. Age Scotland represents many older people and works with older people to ascertain their views. That is the most important reason for saying that we cannot go much further with the petition.

On the offensive comments to the committee clerks, we must say that that is not acceptable. It is not acceptable to make offensive comments to anyone, but the clerking team work extremely hard

and treat everybody with courtesy, and they deserve to be treated with the same courtesy in return. The petitioner is lucky that I am not reading out extracts of the abusive comments that were made to the clerks. The committee should condemn that treatment of the staff.

John Wilson: Hear, hear.

Nigel Don: I agree.

The Convener: The petition will be closed.

Tasers (PE1339)

The Convener: The next petition is PE1339, by John Watson, on the use of tasers by Scottish police forces. I seek members' views on the petition.

Nigel Don: It is another petition on which we have asked the question and got the answer. It is not the answer that the petitioner wanted, but the petition can be closed.

The Convener: Yes. We should close the petition under rule 15.7 of the standing orders, because the Scottish Government has provided legal reasons why it considers it has no legislative obligations or power to provide and implement a legal and administrative framework governing the use of tasers and other firearms. On that basis, is the committee happy to close the petition?

Members indicated agreement.

Tree Preservation Orders (PE1340)

The Convener: Our next petition is PE1340, by John Scott, on behalf of Neilston and district community council, on increasing the protection of Scotland's tree heritage. I seek members' views on the petition.

Robin Harper: As the notes point out, I have pursued the issue previously. The Wildlife and Natural Environment (Scotland) Bill is currently passing through stage 1 in the Parliament. Trees are part of ecosystems and make a considerable contribution to biodiversity and wildlife. I wonder whether the committee would see fit at least to refer the petition to the relevant committee, which I believe is the Rural Affairs and Environment Committee, while the bill is at stage 1 for consideration in relation to the way in which the bill is being formed.

The Convener: Are you proposing that we keep the petition open and refer it to the Rural Affairs and Environment Committee?

Robin Harper: Yes. I should declare an interest as a member of the Woodland Trust and several other woodland trusts.

The Convener: Does the committee agree to keep the petition open and refer it to the Rural Affairs and Environment Committee?

Members indicated agreement.

Scottish Public Services Ombudsman (Audit and Complaints) (PE1341)

The Convener: The next petition is PE1341, by Dr R A Rahman, on public audit of the annual expenditure of the Scottish Public Services Ombudsman. I seek members' views on the petition.

16:15

Nanette Milne: The SPSO has taken a lot of action in improving the system since we first saw the petition. I do not know whether we can take it much further.

Anne McLaughlin: The petitioner is calling on the Scottish Parliament to conduct an annual audit of public expenditure on the SPSO, but Audit Scotland has made it clear that external auditors perform an annual audit of the SPSO in accordance with the code of audit practice. If Audit Scotland says that that is already happening, I would tend to believe that it is already happening.

Nanette Milne: The SPSO is one of the bodies that the Scottish Parliamentary Corporate Body looks at. The ombudsman supplies it with financial performance information regularly.

The Convener: I understand that there is also discussion between the Local Government and Communities Committee and the Parliament on strengthening the link between the SPSO and the Parliament.

So we will close the petition under rule 15.7 of standing orders. Is the committee happy with that?

Members indicated agreement.

Scottish Public Services Ombudsman (Review) (PE1342, PE1343, PE1344, PE1345, PE1346, PE1347, PE1348 and PE1349)

The Convener: The next eight petitions will be considered together because they all relate to a review of the SPSO. PE1342 is the first and is by Phyllis and Robert French. Next are PE1343 by Sandra Smith, PE1344 by Phillip Hawthorne, PE1345 by James Smith, PE1346 by William Whiteside, PE1347 by Christina Cumming, PE1348 by Mr and Mrs Corbett and PE1349 by Iris Innes.

Can I have members' views on these petitions? Alex Neil and Murdo Fraser are here to discuss

the issue. You can fight it out between you to see who goes first.

Murdo Fraser (Mid Scotland and Fife) (Con): We have had a brief discussion and I have been nominated to go first, but I am sure that Mr Neil will not be shy in coming forward.

The Convener: That would indeed be a first.

Murdo Fraser: I am particularly interested in this issue as it is clear from the number of petitions that have come in that there is some public concern about the SPSO and his office.

I met Jim Martin last week for a helpful discussion. He has come into the ombudsman's position and is taking a very different approach from his predecessor. He has certainly brought in a degree of efficiency to the office, but from the petitions that are before us it is clear that there are still concerns about how the ombudsman's office is operating and dealing with complaints.

It is entirely reasonable to say that there should be an independent review of the ombudsman's office. I would have thought that that would be welcomed by the petitioners and those who are concerned, and that the ombudsman would not strongly resist some independent oversight of his office and the way in which it operates. I therefore encourage committee members to find some way of pursuing that course of action.

Alex Neil (Central Scotland) (SNP): I endorse everything Murdo Fraser said.

There are two issues here. First, there has been an improvement in turnaround times since the new ombudsman took office but, since the last time I appeared before this committee on this subject, my postbag has been inundated with complaints about the ombudsman, most of which are fairly recent, so it is clear that there is still quite a bit of disquiet. Secondly, my observation is that there is a lack of investigative skills in the ombudsman's office; that is the source of most of the complaints. There is also a lack of powers; the ombudsman can make recommendations but he does not have much power. If the SPSO's role were benchmarked against that of the information commissioner, I submit that the information commissioner's office would be found to be much more effective than the SPSO, albeit it has a slightly different remit.

Like Murdo Fraser, I think there is a need for an independent investigation into the effectiveness, powers and remit of the SPSO. The performance issues, particularly in relation to investigative skills, should be investigated. There is a need to talk to users. Although the Local Government and Communities Committee considers an annual report from the ombudsman, it has never actually spoken to any of the users of the service. The

ombudsman found in favour of many of the petitioners, but they were still left with a great deal of frustration, either at the time that was taken or because nothing happened thereafter.

The independent investigation should be carried out by the Parliament's Local Government and Communities Committee or it should be commissioned by the Public Petitions Committee or the Local Government and Communities Committee in such a way that it is not treated as a party-political matter. The issue is bigger than that; any investigation or review should be independent and be seen to be independent and fair and be about the effectiveness of the current operation and consider the powers and remit of the ombudsman in the future.

Robin Harper: Given the degree of agreement between Alex Neil and Murdo Fraser, I could hardly suggest that we need not have an independent investigation. The level of complaints that have come to us over the years suggests that we should do as much as we can to review the situation. My first observation is that the SPSO has completed a review of all aspects of its complaint handling policies, guidance, procedures and practices, focusing on the early resolution of disputes. The office of the SPSO has done that work for itself. It has new processes for dealing with complaints and for how it reaches decisions, and it has a quality assurance system. Let us have a review, but let it be focused on the two areas that have already been mentioned—and perhaps one more. In any case, let us get the best out of any review so that it can come to an early resolution.

There is one thing that I hope is perfectly obvious to everyone: even the SPSO will never be able to please everybody. By the time people come to the SPSO, they will already have been through one if not two or three complaints procedures that have not given them satisfaction. The complaints that come to the SPSO are the most intractable ones, and it cannot be expected to solve everything to everybody's satisfaction.

Nanette Milne: I note that the ombudsman has submitted the first draft of the complaints handling procedure to the Local Government and Communities Committee for its consideration. Would it be appropriate simply to refer the petitions to that committee, as it is examining the issue anyway?

The Convener: We do not want to have two committees considering the same issue—we need to be more joined up than that. Do members agree to contacting the Local Government and Communities Committee with a copy of the petitions with a view to finding out what that committee is doing on the matter? We could defer

a decision until we have that information. Would that be useful?

Cathie Craigie: When the committee considered the matter previously, I was a new member of the committee and I kept quiet as I was learning the ropes. I felt a bit concerned, though, because a lot of people had petitioned the Parliament on the matter. I recall that standard letters were used; we did not know what the complaint against the Scottish Public Services Ombudsman was. I do not know how many complaints the Public Petitions Committee has received on the matter. Alex Neil is telling us that he has been inundated with complaints.

I need more information before I can reach a decision. I have people saying that they have been inundated with complaints and I have the petitions, which use a standard format. I tend to think that a person would be more willing to complain in their own right than to sign up to a standard letter. I want to know what is at the bottom of the issue. Can the committee consider that, or should it be for the Scottish Parliamentary Corporate Body and perhaps Audit Scotland? The organisation's ability to manage and its administration have been mentioned. I understand that Audit Scotland can consider not just finances but whether an organisation's management structures are right.

I am in no way persuaded that we should continue the petitions. I do not know whether we are the right group of people to resolve the situation.

The Convener: John Wilson is a member of the Local Government and Communities Committee, which has done work with the SPSO. Would it be appropriate to refer the petitions to that committee?

John Wilson: The Local Government and Communities Committee met Jim Martin, the ombudsman, earlier this year and two weeks ago. He was asked about the petitions two weeks ago and he accepted some issues that petitioners had raised. He said that he is fairly new in office and that he has put into operation structures that he hopes will speed the time that is taken to deal with complaints.

Earlier this year, Mr Martin talked about the ombudsman's powers. He has the power to lay reports before the Parliament, but the guidance that is issued to the ombudsman contains nothing clear about the powers in relation to those reports. He has the power only to lay a report before the Parliament. He and the committee expressed frustration about that and felt that the powers needed to be reviewed. It is helpful that Phyllis and Robert French say in their letter to the committee that nobody seems to object to

widening the powers—the issue is how the powers are monitored and used.

Cathie Craigie is right—whether the corporate body, the committee or the Local Government and Communities Committee does the review, it must be more wide-ranging and must not consider just how the SPSO operates at present. When Mr Martin attended the Local Government and Communities Committee meeting recently, I asked what action is expected to be taken after the ombudsman lays a report to the Parliament and whether the ombudsman has an enforcement role in relation to the organisation that he reports against. Many petitioners are frustrated that, although reports have been made to the Parliament, that has been the end of the road and no formal instruction has been given to the public body involved to take the action that the ombudsman had outlined to resolve the issues. The wider point is about the ombudsman's powers.

The petitions could be referred to the Local Government and Communities Committee, which I have no doubt would refer us to the discussion in the meeting two weeks ago. It would be useful for all concerned to refer the petitions to that committee and possibly the corporate body. As the funder of ombudsmen, the corporate body could be asked whether it intends to review the SPSO's policies and powers.

The Convener: I understand that we cannot refer a petition to the corporate body, but we can certainly request information from it.

16:30

Nigel Don: I am interested in what John Wilson said. It is perhaps worth reflecting the other side of it, which is that the moment the SPSO has the power to enforce something, first of all it becomes a kind of legal proceeding and, secondly, he or she will be inundated by every person who feels that they have got the wrong answer from the public service. We learned from a tribunals debate a few weeks ago that a million tribunal decisions are made each year in Scotland. I came to the conclusion that another appeal procedure is probably not what we want, because it would immediately be overwhelmed with people who did not like the first decision.

Nevertheless, there probably is a case for reviewing the ombudsman legislation and looking at what the SPSO is supposed to be doing, but it is not obvious to me how we get that done. From what John Wilson said, I am not convinced that the Local Government and Communities Committee is proposing to carry out such a review and, clearly, we are not in a position to do it. It sounds like a Governmental thing or possibly a

Scottish Parliamentary Corporate Body thing. I seek some advice on where we can refer the petition so that the whole basis of the SPSO can be reviewed, because I think that that is the nub of the issue.

The Convener: Does the committee agree to refer the petition to the Local Government and Communities Committee and to seek advice from the SPCB on where would be the appropriate place within the Parliament to review the matter?

Members indicated agreement.

Alex Neil: I see that the ombudsman complained about how the Public Petitions Committee handled its previous session on the petition. I would like to make it clear that there are so many identical letters because we were advised by the clerks that that is what we should do; it is not the case that everybody originally wrote an identical letter. When we had discussions with the clerk, we were advised that it had to be done that way, otherwise we would have sent in just one submission. We followed the advice that we received; it was not a round robin.

Cathie Craigie: I am grateful for that information but I do not know that I am clear even now what the complaints against the SPSO are.

Alex Neil: I am happy, with the permission of the people who have written to me, to supply the Public Petitions Committee, the Local Government and Communities Committee or the SPCB with copies of the many complaints.

Nigel Don: Can I make the point, convener—to defend the clerks—that I suspect that that is precisely what the clerk was trying to avoid? We are not a court of appeal for decisions that come to the SPSO; we never will be and we might as well not pretend that we are now. That is precisely why we do not want to know the detail of the complaints—that is not an issue for us—but we do need to worry about the process and the implications of how things are done, hence having identical petitions from a number of people who want to be involved is, I suggest, the right way forward, albeit that it is not obvious beforehand that that is the right way to do it. I want to defend the clerk's approach. We can now see why you went that way.

The Convener: Okay. That is agreed.

Institutional Child Abuse (Victims' Forum and Compensation) (PE1351)

The Convener: The next petition is PE1351, by Chris Daly and Helen Holland, on a time for all to be heard forum. I seek members' views on the petition.

Anne McLaughlin: The Scottish Government's submission says that it will respond to the report by the chair of the time for all to be heard forum by the end of March 2011. We had agreed to invite the Cabinet Secretary for Justice and the Minister for Children and Early Years to give evidence to the committee on 7 December, but I wonder whether it would do the petition more justice and be more useful to have them in front of us to give evidence after the response to the report. Given that the response is due by the end of March, I do now know whether that means that the next Public Petitions Committee would deal with it.

We could ask initial questions of the cabinet secretary and the minister in December, but a lot of their answers might be along the lines of, "We need to see the report by the chair of the forum." It might be better to get the report, get the response and then get the cabinet secretary and the minister before the committee. That would be slightly disappointing for me, because I am interested in the issue and I would like to be on that Public Petitions Committee, but it might be a better way forward for the petitioners.

The Convener: Does the committee agree with the suggestion that the petition be continued and that it would, in effect, form part of the legacy work? Are members happy with that?

Cathie Craigie: Is the report being published at the end of March? I thought that it had already been published.

The Convener: I thought that it had been published, too. My understanding is that the Government will respond to the report by the end of March. However, we could clarify that and defer our decision until the next meeting.

Cathie Craigie: The next meeting will be on 7 December, so it will be too late. If the report has been published, surely ministers will be able to read it. They might not have formally responded to it, but they will be able to make a point of reading it before they come to the committee.

Anne McLaughlin: Convener, I withdraw my suggestion.

The Convener: That is fine. Is the committee content to invite the ministers to our meeting on 7 December to discuss the petition?

Members indicated agreement.

The Convener: Thank you.

Saltire (Edinburgh Castle) (PE1352)

The Convener: The next petition is PE1352, by Mark Hirst, on the flying of a saltire at Edinburgh castle. Christine Grahame is here to speak to the petition.

Christine Grahame: I will make some brief comments, because the petitioner cannot be here.

I note the responses from the Government and the petitioner. There seems to be an awful lot of smoke and mirrors when we discuss saltires and flags and the castle, and it is not the smoke from the 1 o'clock gun. I understand that the first Scottish Parliament information centre briefing stated that the castle was in the ownership of Historic Scotland, whereas a quick search on the internet shows that it is in the ownership of the Scottish ministers, so there was a wee spat about that with SPICe. I do not say that there was any plot in that, but the error should not have been made.

I find some of the Government's response quite stunning. When it talks about Historic Scotland's engineer—let us forget about blowing a big hole in the volcanic rock and all the drama that that would entail—it states that the engineer and architect for the castle have "estimated" the base that would be required for a 90ft flagpole. What research did they do? It is "estimated"—that word is just flung in. How did they come to that particular figure? The response goes on to mention how much they estimate a 90ft flagpole would measure in diameter at the bottom of the pole and what it would require and so on. Who were the experts? I suggest that we need a bit more meat than just the comments that are given.

References are also made to the impact on tourism. I understand that the petitioners did a survey with tourists and the majority wanted the saltire to be flying high above Edinburgh castle. They could not understand why it was the union flag. The petition is not against the union flag or the Army. People have said that the proposal is disrespectful to the Army, but it is nothing to do with that. Why is the flag there in the first place if there is no legal requirement?

With regard to the costs, Saltire Scotland is going to pay, because it is prepared to put its hand in its pocket and not create costs for the public purse.

I am happy to provide some further information to the committee. I have just got hold of it from the petitioner. He did a lot of freedom of information requests, which, frankly, exposed a lot more than some of the correspondence has done. For example, I have in my hand a note of a phone conversation from a DH to the Ministry of Defence, which says:

"To many questions. Ed is id"—

I think that means identified—

"as f-f station"—

that means flag-flying station—

"in regs. Background for Queen's regs - can look into - big job. Research why E.C."—

Edinburgh castle—

"is a f-f station. Come to conclusion no reason. Will fax."

We cannot get our hands on that fax because it has been redacted—for reasons, I think, of national security. I did not know that we were going to stop an invasion from wherever with nuclear weapons from Edinburgh castle, which is purely ceremonial. That is the first of the responses to the FOI requests.

That note was dated 20 July but there is another piece of correspondence dated 4 August from Norman Macleod, Historic Scotland's solicitor, to Dorothy Hoskins. I think that the tone of this e-mail destroys it. Mr Macleod says:

"Dorothy

This relates almost in its entirety to flag flying issues and how that is permitted. I have not provided any advice on that issue, Douglas may be able to confirm the acceptability of your wording on those points.

My discussions have related to the ownership of the Castle. Our position is that the whole castle transferred to the Scottish Ministers on devolution and the paper, although happily not saying much on this point, does reflect this. I am content with that aspect."

Why say

"although happily not saying much on this point"?

Are they trying to kid us on that Historic Scotland, the MOD or someone else owns the castle, not the Scottish ministers? It is in the hands of Scottish ministers to decide what flag flies at the highest point. No priority is given to the union flag and the saltire could be flown there.

If I could go back to—

The Convener: Can you please be brief?

Christine Grahame: I will try, but I think that that is an important point. Many people got mixed up about whether Historic Scotland or the MOD owned the castle, when in fact the Scottish ministers own it.

The Convener: I think that we already have that information.

Christine Grahame: You do not have these two pieces of correspondence that I got through freedom of information, the tone of one of which makes it plain—

Cathie Craigie: We have got a letter that does that.

Christine Grahame: Have you got these pieces of correspondence?

Cathie Craigie: No, but we have a letter that makes it plain.

The Convener: Please continue, Ms Grahame, but I ask you to be brief.

Christine Grahame: I will. I am happy to provide information from the petitioner's other FOI requests that shows that Queen's regulations do not apply, which means that that is a bit of smokescreen, and that there is no reason why Edinburgh castle has been designated as a flag-flying station. That is crucial.

The Convener: Thank you. I seek members' views on the petition.

John Wilson: In view of what Christine Grahame has told us, and the FOI information that she has highlighted and which she will pass to the clerks, I propose that we continue with the petition and write again to the Scottish Government to make it aware of all this information and to ask it for a detailed response, particularly with regard to the fact that the castle is owned by Scottish ministers not the MOD.

Nanette Milne: I do not disagree with that suggestion but, regardless of the rights and wrongs and the information that Christine Grahame has, the fact is that the Government—in this case the First Minister's office—has treated the committee with contempt. It was asked to respond and despite promptings and reminders from the clerks it has not done so. This has been going on for a long time—since September, in fact—and it is just not on. We should make it very plain in writing that the committee is not very happy with the situation.

Robin Harper: As this is not the most urgent issue to have come before us in the past few months, I simply add to John Wilson's suggestion by proposing that we ask the Government to respond in time for us to consider the matter on 11 January instead of at our next meeting. By doing so, we would give it no further excuse for delay.

Nigel Don: I want to defend the engineering profession from some of the suggestions that my well-meaning colleague has just made. Engineers spend their lives estimating things—and I stress that the numbers that they came up with are estimates, not guesses. Sometimes those estimates are based on back-of-a-fag-packet calculations, but it is amazing how many numbers you can actually get on the back of a fag packet. There is some logic in making estimates and I have to say that the numbers that have been set out make a good deal of sense to me. I do not think that there is a need to blow up the volcanic rock, but we should not write off estimates as being the wrong approach.

The Convener: Does the committee agree to continue the petition and to write to the Government in the terms suggested?

Members indicated agreement.

The Convener: I thank Christine Grahame for her attendance and hope that she is not offended that I cut her short. She is not the only one that, what with this afternoon's long agenda, I have had to cut short.

Christine Grahame: I am not at all offended. I am delighted to see that the committee is as hard working as the Health and Sport Committee.

Multiple Sclerosis Treatment (PE1353)

The Convener: PE1353, by Audrey Barnett, is on chronic cerebrospinal venous insufficiency liberation treatment for multiple sclerosis. I seek members' views on this petition.

Nanette Milne: I do not know whether this is an issue for the committee, but it is clear that more research is needed on this issue. The treatment sounds very good, but in the absence of any objective information I think that it is unrealistic to expect a recommendation to promote it. I note that the Scottish Government's chief scientist office would be pleased to consider research proposals to investigate the potential of the treatment. If that were made clear to the petitioner, we could safely close the petition.

16:45

The Convener: Is it agreed by the committee to close the petition on special grounds?

Members indicated agreement.

Citizenship Education (PE1354)

The Convener: Petition PE1354, by Stewart Mackenzie, is on legal education in secondary schools. I ask for members' views on the petition.

Murdo Fraser: I am happy to support the petition. Mr Mackenzie is a constituent of mine and an assiduous petitioner of the Public Petitions Committee, always in defence of valuable causes, not least this one on legal education in secondary schools. I have seen the excellent response from Consumer Focus Scotland, which is extremely comprehensive, covers the issues well and makes the case strongly as to why there is a need for legal education to be built into the curriculum.

I am aware that we do not have in Scotland a mandatory curriculum; it would be a departure to go down that road and it is not something that I propose. However, Consumer Focus Scotland concludes its submission with helpful comments about the way in which such citizenship education could fit in with the objectives of the curriculum for excellence. I suggest respectfully to committee members that that might be a way in which to take on the issue and to take it to the education

minister, if that has not been done, to see how the proposal could fit in with the development of the curriculum for excellence in secondary schools.

Nigel Don: I cannot disagree with a word that Murdo Fraser said, but we might consider another aspect of the issue. As I understand it, education is not about ensuring that people know things; although some useful things have to be taught along the way, it is fundamentally about people understanding that there are ways of solving problems and getting the information that they want, because there are structures and logic out there. Therefore, citizenship education should be about ensuring that people know about the legal and advice processes. Only the most expert lawyer knows his way around consumer law—those of us who have studied it know that it changes like everything else and one rapidly gets out of date. Teaching people the details of law is surely not the primary issue; it is about people learning to understand how society operates, what kind of information they are looking for, where to find it and what help they might need.

The Convener: Once they know how to read, that is. [*Laughter.*] I am sorry—

Nigel Don: No, you are absolutely right; that was not a flippant comment and you should not take it back. You are right that those things can be learned only once we know how to read.

The Convener: The suggestion is that we continue the petition.

Robin Harper: We should continue it, but subjects such as modern studies encompass quite a few of the areas that have been mentioned. To expand on the ideas on citizenship that have come before us, I add that the old social and vocational skills course was adopted by one school as a compulsory subject for all students, on the basis that it introduced them to the kind of skills that they would need and some of the knowledge implicit in a citizenship curriculum. The vehicles to train teachers and ways of teaching exist. Modern studies is all about developing the very skills that Nigel Don mentioned. Sadly, the subject is not taught in every Scottish school and many schools do not have heads of modern studies departments. I no longer have an interest, but I am a former modern studies teacher.

The Convener: Speaking as a former modern studies teacher also, I could not possibly comment.

The suggestion is that we continue with the petition and forward information to the Government. Are we agreed?

Members indicated agreement.

Public Transport Costs (Under-18s) (PE1355)

The Convener: PE1355, by Katy Simmons and Scott Currie, on behalf of Arran high school pupils and the Arran youth forum, is on fair public transport costs for students. I seek members' views on the petition. Have we had enough information back?

Nigel Don: From my reading of it, the petitioners make a fair point that unless the schemes that are available are advertised and publicised, they are not much use. We should write to the transport organisations to ask them what they do to publicise their schemes, and perhaps to remind them that they need to do so.

The Convener: Is it agreed that we continue the petition and seek answers from the organisations from which we have failed to get answers so far?

Members indicated agreement.

Young Homeless People (Quarriers Charter) (PE1356)

The Convener: PE1356, by Rebecca Doherty, is on supporting the Quarriers charter for young homeless people. I seek members' views on the petition.

There are some specific questions that we need to ask with regard to the implementation of the statements in the charter and how that is achieved at a local level. There is an issue of consistency, which consistently comes before the committee. Is there anything else on which we should contact the Government?

Nanette Milne: Will the Scotland bill address the concerns that are raised in the charter? Would it put a statutory duty on local authorities to look beyond the accommodation needs of the applicants?

The Convener: There is a series of questions that the petitioner has suggested we raise with the Government. Is the committee happy to do that?

Members indicated agreement.

Renewable Energy Stations (Consent) (PE1357)

The Convener: Our final petition is PE1357, by Tessa Packard, on behalf of Black Mountain Farms, Facombe Estates, Horseupcleugh Estate, Burncastle Estate and Cranshaws and Longformacus community council, on an inquiry into consent for renewable energy generating sites. I seek members' views on the petition.

Nanette Milne: The Government has made plain that—and has given the reasons why—it will not convene an inquiry to consider the process for

consenting to onshore and offshore renewable energy generating stations. The applications are considered on a case-by-case basis, and there is a full and thorough consultation process. We have been given comprehensive information on the mechanisms that apply to objections to wind farm applications.

It is obvious that the Government is taking consultation on such applications seriously. If it is clear that it will not do any more, it would be difficult for the committee to take the matter much further.

The Convener: Do members agree?

John Wilson: No. I was going to suggest that we continue the petition. We should draw to the Scottish Government's attention the further information that we have received from the petitioner and ask the Government for a response on the issues that the information raises before we close the petition. The petitioner has identified some areas that still need to be resolved, and it would be useful to get a response from the Government on those issues.

The Convener: Two views have been expressed: one that we should close and one that we should continue. Are there any other views?

Cathie Craigie: If a member feels that there are still questions to be answered, we should continue.

The Convener: Are you content with that, Nanette?

Nanette Milne: I would wish it, yes.

The Convener: Fine. It is agreed that we will continue on the terms that John Wilson has suggested.

I thank all members of the Public Petitions Committee for their efforts in tackling the petitions in front of us today. Our next and last meeting of 2010 is on Tuesday 7 December at 2 pm; I understand that there will not be as many petitions as there have been today. I thank those members of the public who have stayed with us for the duration of the meeting.

Meeting closed at 16:55.

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