



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 25 January 2011

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PUBLIC PETITIONS COMMITTEE

2nd Meeting 2011, 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:

Jackie Baillie (Dumbarton) (Lab)

Trish Godman (West Renfrewshire) (Lab)

Christine Grahame (South of Scotland) (SNP)

Rhoda Grant (Highlands and Islands) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

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

THE FOLLOWING GAVE EVIDENCE:

David Anderson (Transport Scotland)

Keith Brown (Minister for Transport and Infrastructure)

Frances Duffy (Transport Scotland)

Hugh Gillies (Transport Scotland)

Anne Massie

Ron McAulay (Network Rail)

Neil McDonald (DB Schenker Rail (UK) Ltd)

John O'Neill (Scottish Power)

Colin Sloper

Mac West (Clackmannanshire Council)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 25 January 2011

[The Convener *opened the meeting at 14:09*]

Current Petitions

Freight Trains (Overnight Running) (PE1273)

Rail Noise and Vibration (Larbert) (PE1302)

The Convener (Rhona Brankin): Good afternoon and welcome to the second meeting in 2011 of the Public Petitions Committee. No apologies have been received. Please ensure that all mobile phones and electronic devices are switched off.

Agenda item 1 is consideration of current petitions. I suggest that we spend approximately an hour discussing PE1273 and PE1302, which are on the overnight running of freight trains. We have a number of witnesses, and we are keen to have a worthwhile discussion about the issue, which is complex.

I welcome to the meeting Anne Massie and Colin Sloper, who are petitioners; the Minister for Transport and Infrastructure, Keith Brown; Frances Duffy, who is an official from Transport Scotland—she is with the minister; Ron McAulay, who is Network Rail director for Scotland; Neil McDonald, who is managing director of DB Schenker Rail (UK) Ltd; and Mac West, who is roads and transportation manager for Clackmannanshire Council. I thank all the witnesses for their attendance.

We will start with questions from committee members. I know that Richard Simpson, who is a local MSP, is keen to become involved in the discussion, too.

Bill Butler (Glasgow Anniesland) (Lab): Good afternoon to all members of the panel.

I have some interest in the petitions in a formal sense, given that I was, for my sins, convener of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee nearly eight years ago. Obviously, like other members, I am concerned by what is being endured—I think that that is the correct word—by constituents in and around the minister's and Dr Richard Simpson's constituencies.

My first question is to Mr John O'Neill of Scottish Power. Has Scottish Power ever been able to guarantee turning around each of the proposed 15

coal train sets to Longannet power station in less than two hours? That was mentioned in the Scott Wilson impact report.

John O'Neill (Scottish Power): It depends on the size of the train, but I think that the answer is no for the trains that are capable of running on the Stirling-Alloa-Kincardine line. The answer will be yes if much smaller sets are run, but significantly more such trains would have to be run to deliver the same tonnage that we expected to be able to deliver over the SAK line.

Bill Butler: But the reality is that 15 sets were mentioned in the report, and it was never going to be possible to avoid night running or even to turn around the 15 sets in 24 hours, given that, if there is a two-hour turnaround time, the maximum would be 12 sets in 24 hours. Is that right?

John O'Neill: If two hours is the optimum time to get trains in and back out into the system in a reliable and robust manner, the answer to the question is probably no.

Bill Butler: So you were never able to guarantee that.

John O'Neill: I do not think that we would have been able to guarantee it unless the trains were much smaller.

Bill Butler: Yes, but in real life, the answer is no. That is handy to have on the record because the impact study that Clackmannanshire Council ordered was based on the assumption that there would be 30 paths—that is, 15 train sets would arrive at Scottish Power at Longannet in 16 hours, from 07:00 to 23:00. Scottish Power has now confirmed that that frequency of traffic could never have been handled. That is a bit disturbing.

I am looking for the facts, as I want to get things right. The Scott Wilson impact report mentioned the absence of night running on 18 separate occasions—I got a researcher to work on that; I did not do that work myself. The committee and local people were promised that there would be an absence of night running, but that was never going to be the case.

14:15

I have a few other questions. The first is for Scottish Power and—let us vary it a little—Mr McDonald of DB Schenker. As the bill went through the committee of the Parliament, it must surely have become obvious to your organisations that the main objections were arising from noise and vibration. One of the real concerns was the overnight running of freight trains, and we were promised that that would not happen. Given that it must have been obvious that that was inadvertently misleading, why did you not make

the committee aware of that when it was considering the bill?

Neil McDonald (DB Schenker Rail (UK) Ltd): We were unaware of the limitation that the promoter had put in the bill. The stated assumption in the bill was 5 million tonnes, but we always knew that 5 million tonnes could not be run within the 16-hour window. We were supportive of the SAK development—

Bill Butler: If you knew that, why did you not tell the committee?

Neil McDonald: I am not aware that we did or did not tell the committee.

Bill Butler: Nobody told the committee. Was it an oversight?

Neil McDonald: DB Schenker was not aware that the constraint was going to be placed within the bill. I am still not aware that that constraint was actually in the bill.

We were supporters of the bill because it gave us an opportunity to move more tonnage into Longannet power station. We were aware that the line was becoming part of the strategic network of the United Kingdom rail industry, which is a 24/7 railway, and we supported it on the basis that it would be a 24/7 railway. Had we been made aware of the constraint from 23:00 to 07:00, we would not have supported the bill because that would have been contrary to the strategic objectives of a 24/7 railway.

Bill Butler: If only we had heard that seven and a half years ago. Mr O'Neill, do you want to have a shot at responding to that question? It seems straightforward enough to me.

John O'Neill: I can only echo what Mr McDonald has said. Our expectation was that, when the SAK line was put in place, there would be no constraints on the use of that line. We expected the increased capacity to be available on a 24-hour basis.

Bill Butler: At what point after 2003 did you realise that the number of freight trains would need to increase and that the time between 11.00 pm and 7.00 am was not realistic? Were you always aware of that?

John O'Neill: It is a moving picture with these things.

Bill Butler: Yes, it is moving.

John O'Neill: Since 2003, the network has got busier. By the time things were put in place, the timetabling of the trains that would give us 5 million tonne capability through the system was such that we ended up with the two-hour terminal time at Longannet to enable us to plan regular,

reliable and robust programmes that would deliver the tonnage that we required at Longannet.

Bill Butler: Let us move on, convener.

The Convener: Robin Harper has a question. Is it on that point?

Robin Harper (Lothians) (Green): Yes, it is. There seems to be a bottleneck in terms of the turnaround time for the trains, which you said is two hours—is that correct?

John O'Neill: The terminal time is two hours. That is the time from the train arriving at the power station to its departure from the power station.

Robin Harper: Would it be possible to decrease that turnaround time? Do other power stations have faster turnaround times for trains of a similar size? If so, have you worked out how much that would cost? Has decreasing the turnaround time been considered?

John O'Neill: We have looked at that. To take a step back, when we had the old HAA wagons coming over the Forth rail bridge, they had a capacity of about 1,000 tonnes a train. The hopper into which the coal is discharged is a 2,500 tonne hopper. The trains have bottom discharge wagons so, when they arrive, they open up and discharge the coal through grids into the hopper. From the hopper, the coal is conveyed either out into stock or to the units. We have to keep a certain amount in the bunker at any point in time—around 500 tonnes—because there are paddle feeders at the bottom that feed the coal on to the conveying systems. So, there is a working capacity for coal of about 2,000 tonnes. In the past, that meant that we could accommodate two trains' worth of coal in the hopper as storage at any point in time. With the larger train sizes that we are now operating—at 1,600 tonnes—we cannot take the equivalent of two trains. That puts some delay in the system, as a certain amount of time is required to get the bunker clear before we can bring in the next train.

A number of factors impact on how quickly we can process coal with the system that we have. Further, what we do on the ground at Longannet has got slightly more complicated. Back in 2002 and 2003, we fed the same diet of coal to all the units, so what came in could be fed to all the units. Now that we have fitted FGD—flue-gas desulphurisation—at Longannet, we have to feed a different diet of coal to the FGD units and the unabated unit. That means that there is double handling of coal to process the right blend of coal to the different units. There is some stop starting, as we have to recover coal from stock to put back on to the belts, and unloading of coal that might be going in or out. That means that the effective rate at which we can take coal away from the bunker overall has decreased slightly.

Robin Harper: I want to pursue that, as you have not answered the question whether it is possible to improve the system. Is a different system available or is it possible to improve the system? Would you be able to find money to invest in an improved system?

John O'Neill: We have looked at that and what I have got back from our people is that, to improve the rate at which we can discharge coal and move it through the system, we would have to get back to where we were before, which was a hopper that could take the equivalent of two trains of coal. That would mean uprating the belts and the rate at which we can physically take coal away. We are talking about tens of millions of pounds of investment to do that—it is a large undertaking. The hopper sits underground. We would either have to build a completely new hopper, which would mean diverting rail lines and building new conveying systems, or take out the existing hopper and replace it. That would potentially mean taking out the ability to feed the station for periods of time, which would have a significant impact on the revenues to Scottish Power.

Nigel Don (North East Scotland) (SNP): Can you confirm that there is nothing in principle to prevent Scottish Power from installing a parallel railway line with a parallel hopper and a parallel set of belts? I appreciate what those look like, as I have worked in industry. The issue is that it would involve a very large number in terms of money.

John O'Neill: It is a huge number.

Nigel Don: I understand that, but there is nothing physically to prevent you from doing that if you had the will.

John O'Neill: We have had only an initial look to find out what it would cost. We have not done a detailed study. Work would still need to be done to find out exactly where we would put the hopper and how it would be done. We have done a desktop study to show what we would need to do. We would need a significant sum of money.

Nigel Don: It is physically possible.

John O'Neill: That would need to be subject to a detailed study on the availability of land near the existing hopper and other issues. A detailed study has not been done.

Bill Butler: For the record, what was the number of freight journeys when the railway became operational and what is the number now, broken down by day and night time?

Neil McDonald: I do not have the information on what the number was when the railway first started. There was a period when Longannet was taking less coal through, when it was making significant investment in its plant. The number varies through the years. Just now there are

something like 36 trains per week going through that we operate and a further 12 that are operated by another freight operating company.

Bill Butler: What action did DB Schenker take at the time that it obtained permission under the track access agreement for the night running of freight trains? When was that agreed and for how many trains was it agreed? Who did you consult locally, such as residents?

Neil McDonald: We worked with Network Rail as part of our timetabling arrangements, which are annual arrangements. We sought to agree pathings through what is probably the second largest train operation outside London. Trying to path trains through from Ayrshire to Longannet is fairly significant. All the way through 2007 there were some delays to that because there were key issues around additional levies being put on the route, which at that point DB Schenker, or the English Welsh & Scottish Railway Ltd as was, was unable to commit to going on the SAK line and was remaining within the Forth bridge. Those were resolved in late 2007 and early 2008. In February 2008 we applied for the paths for 24/7 working. In July 2008 we agreed those paths for commencement of operation in December 2008.

Bill Butler: That is interesting, but one thing seems to be missing. What specific discussions took place and how did they take place—if they took place—with local residents along the railway route when overnight running of trains was introduced? Perhaps Mr McDonald and Mr O'Neill could both have a shy at that.

Neil McDonald: It is our obligation to work with Network Rail. It is not our obligation to consult along the lines of routes with all local residents.

Bill Butler: Did you consult any local residents?

Neil McDonald: No, that is not our role.

Bill Butler: Thank you. That is clear. Mr O'Neill?

John O'Neill: No. I am not aware that we consulted residents either. As I said before, when the SAK line came in the full expectation was that it would be in 24-hour operation.

Bill Butler: You are saying that that was your organisation's expectation, but it was not the bill committee's expectation at all, because we were never told that. When the question was put, we were told that there would not be night running. Mr McAulay, what about you? Has Network Rail had any discussions with the residents who are affected by overnight running?

Ron McAulay (Network Rail): Not about the proposals for overnight running.

Bill Butler: So, the organisations that you represent have never talked to local residents about overnight running.

Ron McAulay: Let me be clear. When timetable changes are made every year, going out and consulting all the line-side neighbours is not part of the normal process. I understand the special circumstances around this particular railway, but it would not be normal policy to consult.

Bill Butler: Did you?

Ron McAulay: No. I am not claiming that we did.

Bill Butler: That is very clear and very disappointing.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am not familiar with the exact process when an operator applies for such a permission. What is the process? Who are you answerable to? Who makes the final decision on the application?

Ron McAulay: The process is very much one of the train operating companies bidding for train paths in the timetabling process. They make an application or a bid for train paths. We consider that in light of all the other demands on the railway from other train operating companies. If those paths can be accommodated, we are obliged to allow those trains to run.

14:30

Cathie Craigie: So you would not consult the local community or a local authority.

Ron McAulay: The train timetable changes on a fairly major basis once a year, but there is also a second date when it changes, in May. I can understand the particular circumstances around the section of railway that is being highlighted, but the train timetable changes right across Great Britain, and we have about 5 million neighbours. The task of consulting those 5 million neighbours about every change that was made to the timetable would be impractical, I think.

Cathie Craigie: Perhaps I will return to the matter later.

John Wilson (Central Scotland) (SNP): I wish to develop the issues around the contract and the procedures for coal deliveries. My colleagues have already discussed how the coal gets delivered and how it is dealt with once it gets to Longannet.

My understanding is that Scottish Power's contract is with Clydeport, and that Clydeport contracts DB Schenker to deliver the coal. Could Mr O'Neill of Scottish Power clarify what the contract specifies on the delivery of coal? How much coal has to be delivered, at whatever times? How are the times at which it is delivered broken

down? As I understand it from the figures that we were given, there are currently 48 rail journeys from Hunterston to Longannet, DB Schenker being the largest contractor that takes the coal. How is the contract worked out between Scottish Power and Clydeport in terms of how much coal is delivered, and when and how it is delivered?

John O'Neill: We have a contract that requires delivery of up to 5 million tonnes a year. When it comes to working out what we want delivered, we give Clydeport an indicative view regarding our requirements, based on the forecast running pattern for the year, and that gets shared with DB Schenker.

As far as movements of tonnage are concerned, our only firm contractual commitment is in our schedule a week ahead, when we advise that we require to move a certain number of trains the following week. We have regular dialogue and we keep DB Schenker advised of any updates, so that it has sufficient time to manage the resources that are required.

John Wilson: There is a contract to shift 5 million tonnes of coal a year from Clydeport, but am I correct in my understanding of your answer that you can operate a week ahead? Can you say that you need a certain tonnage shifted the following week, compared with what was required the previous week?

John O'Neill: Under the contract with Clydeport, imported coal is brought into the port of Hunterston in large vessels. Our aim is always to have a stock of coal at Hunterston, so that we can run a pattern of trains. If there is a problem with the shipping schedule at some point and we think that there might be an issue of running out of coal at Hunterston before the next vessel arrives, we might trim back the programme. If we run a slightly reduced programme, that avoids running hard but then stopping suddenly for a week or two weeks. The aim is to smooth it out.

The firm contractual commitment for what is moved in any given week is made, in essence, through ordering a week ahead. We also regularly discuss the longer term, so that a view can be taken on our requirements. We give regular updates.

John Wilson: Convener, I should have said at the outset of my questions that I am a resident in the area, not of the Stirling-Alloa-Kincardine line, but of the line that runs through Coatbridge. I live within about 100yd of the railway line and I see the freight trains that service Longannet going through. I just want to get that on the record so that people are aware of it. I know the problems that exist not just on the Stirling-Alloa-Kincardine line, but all along the line from Hunterston to Longannet.

That leads me to my next question, which is about the timetabling of trains and the modelling that has been used by Network Rail, Scottish Power and DB Schenker in relation to the amount of trains that run throughout a 24-hour period. We heard about that earlier. Could the rail freight be accommodated between 7 am and 11 pm rather than overnight? The major concern of one of the petitioners who is here today is the amount of freight trains that run overnight. As I live next to the line, I know when the freight trains come through, and they pass my house at roughly 3 o'clock and 4 o'clock in the morning on their way up to Longannet. I would like to delve deeper into whether Network Rail could accommodate the freight during the day, transporting the coal between 7 am and 11 pm rather than overnight.

Ron McAulay: The answer is that it would be difficult to timetable the trains. I am thinking of the route that those trains take. They go along what is referred to as the Paisley corridor, which is one of the busiest sections of railway in Scotland. It is a heavily loaded railway already, and finding paths through it during the day would be difficult. Given that it is difficult to accommodate the train paths that we already have, I think that it would be extremely difficult to find additional ones.

I am not going to sit here and say that it would be impossible, because I do not know. I am not a timetable planner, and I would need to go away and model the proposal to find out, but my view is that it would be extremely difficult to find enough paths without interfering considerably with existing traffic on the route.

Neil McDonald: I concur with Ron McAulay. In the mid-2000s, we looked at whether it was even feasible to model different timetables through the Paisley corridor, and we were never able to find a timetable model that allowed us to get through that corridor, where there are only two paths an hour, through Glasgow, up to the Edinburgh to Glasgow line, and then on to the Stirling to Kincardine route. A significant recast of the passenger network in Scotland would be needed, and that made it extremely difficult to deliver what was proposed.

What we do with regard to the pathing that we use is that, when volume drops, we reduce the amount of sets that we use in the operation, and that reduces the cycles that operate at night time. We already do that throughout the rail network to try to drive the asset utilisation of the sets that we have.

John Wilson: Perhaps the witnesses could further clarify the position. My understanding is that the coal freight trains run on six days of the week. Is that true?

Neil McDonald: Yes.

John Wilson: As I understand it, the day when they do not run is Sunday. One of the issues you have identified with the pathing is the Paisley corridor, where there is competition with other trains, which I assume are passenger trains, during the week. Given that there are fewer passenger trains on a Sunday, why can DB Schenker and Scottish Power not work with Network Rail and ask for some of the freight to be transported on a Sunday rather than during the night?

Ron McAulay: As with any strategic transport network, we have to allow some time to get in to maintain and renew the railway. To be frank, if there are six 24-hour operations going on every week, we need to retain sufficient time in the timetable to allow our teams to get in not only on the section from Stirling through to Kincardine but on the whole route, from Hunterston all the way through to Longannet.

Please do not assume that we have all day Sunday to do what we want, because we do not. There are still other trains running on those routes and we have to find times between trains—in what we call white space in the timetable—to allow our teams to get in. Those times are very short. I will give you an example: on the Edinburgh to Glasgow line, we are lucky if we get something like four hours at night to get in to maintain the track. It is not possible to do a huge amount in four hours.

Neil McDonald: DB Schenker is extremely supportive of a seven-day railway. We have worked with Network Rail over the past number of years to deliver a seven-day railway. In fact, the SAK line was a good example of moving towards that capability. It was one of the first routes on which Network Rail moved to its standardised one-week-in-six maintenance programme.

There are significant infrastructure enhancements continuing in Scotland, which will benefit the passengers in the Scottish network over the next few years. Those include work on the Paisley corridor, to which Ron McAulay referred, and the future electrification of the Edinburgh to Glasgow route. Those are significant routes that we would have to try to traverse on a Sunday, and enhancements are usually done on Saturday nights and Sundays.

A large proportion of the work to enhance the passenger network for the benefit of the Scottish economy will be carried out on a Sunday, so we could not consistently commit to the capability that John Wilson proposes.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): The original Scott Wilson impact study said that there would be 30 paths—that is, 15 trains—in the 16-hour period. My colleague Mr Butler has

established that that was never practical or possible. However, we now have 48 trains in six days, which is eight trains a day, and a two-hour turnaround at Scottish Power. Therefore, if the paths were available, it would be possible to accommodate the trains in the timetable that was originally proposed to the bill committee. I understand that there may be a problem with the paths that may be extremely difficult but, technically, from Scottish Power's end, there is no problem with the delivery of eight trains a day in a 16-hour period because that provides for the two-hour turnaround. Is that correct?

John O'Neill: At a simplistic level, that is true, but the key point about the available number of paths is the amount of train traffic that we are running at the moment, given what we have at Hunterston and what we are moving for various reasons. When we get to the peak winter period, we cannot physically deliver between road and rail the amount of coal that we consume at peak demand. In our peak demand periods, even if they fell out with the winter, we would require all the capacity to be available because the station would have a demand for that amount of coal.

Dr Simpson: I understand. So it is eight trains on average, but it may not be eight every week. Am I correct in saying that there was an extended period when there were no deliveries? At one point last year, DB Schenker did not operate trains for a number of weeks. That must have meant that your stocks were oversupplied but, instead of abandoning night-train running—which is offensive to my constituents and disturbs them—over a much more extended period, you stopped all trains, day and night.

My purpose in being here is to ensure that we minimise the insult to my constituents who have, unwittingly, been affected by the Parliament's passing the bill without knowing that you were going to have night running. We did not know that that would happen and we are now asking that you make every possible effort to ensure that night running is eliminated where that is possible and minimised where it is not possible.

14:45

John O'Neill: The only period that I can remember when we had no traffic was during our usual annual shutdown period—a two-week period during which we programme in maintenance work, such as any work that is required on the track at Longannet; maintenance of the rail hopper, which we cannot get to if it is being used on a daily basis; and realigning of hoppers, which takes a long time. We tie in that shutdown with a shutdown of the berth at Hunterston, because, similarly—

Dr Simpson: I understand the need for a two-week period for maintenance. I have obviously been misled, because I understood that there was a longer period.

John O'Neill: I am not aware of any period beyond the one that I mentioned.

Dr Simpson: The petitioners have informed me that there was a longer period during which trains were not run. They said that it was much longer than two weeks. I accept the need for a two-week maintenance period, but there was another period during which trains were not run for a considerable length of time.

Neil McDonald: Can you clarify when that was?

Dr Simpson: The petitioners might be able to do so.

Anne Massie: It was a period of three weeks, as far as I know.

Ron McAulay: Do you have dates?

Anne Massie: I do not sit up in my bed every night and look at the clock.

The Convener: Questions and responses should come through the convener. I ask Anne Massie to clarify her understanding.

Anne Massie: He does not believe me when I say that the trains stopped running for three weeks, but I cannot prove that I am right, because I do not sit up at night and count the trains as they go through. If I did that, I would get no sleep whatsoever.

The Convener: Thank you.

John Wilson: On the running times that Richard Simpson raised, was there any curtailment of the number of freight journeys that were made during the severe weather that we had in December? I am aware that a number of level crossing barriers were frozen open or closed.

Neil McDonald: In December, as we are all aware, we had some of the worst weather that the UK network has faced for many years. In the north and north-east of England in early December, severe snow storms blocked points into power stations. That lasted for three or four days as the power stations were dug out. Every rail freight yard in the north and north-east of England suffered that same set of circumstances. In the third week, it happened in Scotland to the same level—it may even have been worse, because temperatures in Scotland at that time fell as low as -14°C or -15°C.

By the time the snow had been cleared from the points, the coal in the trains had frozen. You might not know that it takes time and effort to get frozen coal out. On 26 December, two thirds of the

wagons in the DB Schenker fleet had frozen coal in them, and it took us a week to get that tipped. At that point, you would have seen a reduction in freight throughout the UK rail network—not only coal but every commodity area, including Royal Mail, fast-moving consumer goods and heavy freight.

I hope that that gives some clarification.

John Wilson: Can I—

The Convener: Very briefly; I am conscious of time marching on.

John Wilson: I am conscious of time, too, but I have a question for Scottish Power. Was there any operational loss to Longannet during the period in which freight trains did not run or their operation was curtailed?

John O'Neill: We had difficulties in feeding coal to the station due to the factors that Neil McDonald has just pointed out. We had a long spell during which we could not physically get any coal into the station. However, we always build stock as we move into the winter period, precisely to cover such situations. In most winters, we have periods when we have frozen loads and lost deliveries, although they are not always as long as this year's period was. Naturally, therefore, our stock comes down as we move out of winter.

For the reason that I mentioned earlier, we cannot physically deliver all the coal that is needed and ensure that we have sufficient stock there as a buffer. The whole point of having stock is to accommodate situations in which there are interruptions to the supply. We need to ensure that we have sufficient stock to cover those situations. However, throughout that period, we had difficulties. Even recovering coal from stock was difficult. We had to bring in additional machinery to break up stock coal to be able physically to feed the units.

Cathie Craigie: We have heard that it would be difficult, if not impossible, to stop overnight trains running. Is that a correct assessment, or can we take a glimmer of hope from the suggestion that you could go back and look at the whole system—the paths, as you call them?

Ron McAulay: I will try to explain. The rail network is a strategic transport network that is available 24 hours a day, seven days a week. Within that timeframe, we have to undertake maintenance on it and we need to renew it every so often but, otherwise, it is there to be used. If people bid for train paths and to move commodities by rail, we welcome that. We cannot say, "No, you can't run at that time," if the train path can be accommodated.

Cathie Craigie: Okay. Can you tell the committee what speed the trains run at in the area

that we are speaking about, especially where the petitioners live? Who monitors that speed and whether it is being exceeded? Who has that responsibility and how regularly is that done?

Ron McAulay: The speed of the traffic from Hunterston right through to Longannet will vary considerably. There will be sections where the speed is up at about 60mph and there will be sections, especially towards the end, on some of the freight-only parts of the new line, where it will be down to about 30mph. On who monitors the speed, we have speed guns such as those that you see the police using on the road system. However, the speed is monitored 24 hours a day, seven days a week—or whenever the train is running—through the black box that sits in the train itself. The black box records the speed at which the train is travelling, and the train operators monitor the black boxes regularly to ensure that their drivers are behaving.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good afternoon, folks. One of the main issues to have come before the committee has been the aggravation of noise due to night running, which seems to be a genuine problem. In your opinion, is the current track design adequate and appropriate for the service that is being run over it? When does the mitigation of a noise barrier kick in? The petitioners have stated that they are of the opinion that the noise level has reached something like 80 dB, which is quite high. When did you last measure the daytime and night-time noise levels? Are you willing to carry out any further survey as required by the petitioners? It seems to be a big issue for them.

Mac West (Clackmannanshire Council): We have carried out surveys of noise and vibration along the length of the line. We also produced a model that extended 300m to either side of the line, which covered around 6,200 houses. The criterion that was used to assess whether mitigation was appropriate was whether a property suffered a noise level of more than 55 dB representing an increase greater than 5 dB on the noise level prior to the railway opening. Along the length of the SAK line, 44 properties qualified under that criterion.

We took another look at where those properties sat. Some of them were separated by a single property that was set slightly further back, so that the property in the middle would not have qualified. It seems illogical just to put a barrier across the front of those two houses; it is more logical to continue the barrier to give consistent protection. That increased the number of properties that were to be offered noise mitigation to 66.

Almost all those properties were visited towards the tail end of last year. The proposals for noise

barriers were explained to the residents and the majority of them have accepted them. The intention is that, in the coming months, the council will let a contract for installation of those barriers at those 66 properties. One or two residents have declined the offer of mitigation because the barrier would spoil their view or for other reasons. That is the current situation.

John Farquhar Munro: At how many locations along the line are the day and night operations being monitored? Are the noise levels now higher than they were at the start of proceedings in 2003?

Mac West: The railway only opened to traffic in 2008 and the noise measurements were carried out in 2009. Freight traffic started to run in December 2008 and we delayed the noise measurements until after that freight traffic was running so that we could catch the impact of all the traffic that was running on the line, including overnight traffic.

John Farquhar Munro: Thank you.

Bill Butler: Do Mrs Massie and Mr Sloper think that the mitigation that has been described is sufficient.

Anne Massie: A couple of gentlemen came to look at my property. At the moment, I have 40ft leylandii trees on either side of my property and they baffle the noise. There is a gap between one belt of trees, and another gap right where my bedroom window is. My bedroom is 7m from the track. That gap is where I hear most noise. I also hear it past my garage at the end of my garden because there are no trees there. I have a 1.8m fairly closely boarded fence in front of the trees, which also helps to baffle the noise.

My garden is below the level of the track so the wheels are more or less at head height. A burn runs through my garden and the gap is at the point where the burn runs under the railway line. There is no way that a fence can be put there to stop any noise coming in my bedroom window. My bedroom will always have noise because of where the burn runs. The fence overlaps the gap but it does not stop the noise because the noise comes over the top. A 3m fence would be needed. I believe that Mac West mentioned a 3m fence, but putting that in would mean taking out some of my trees, which would cause more of a problem. They would also have to take out the fence that is already there; it is still in very good condition because it was put in just before I bought the house.

I have certainly been offered mitigation. I must challenge what Mac West said, however, because I have neither accepted nor refused mitigation because I have never been offered it in writing. I will do nothing on mitigation until the night-time

trains are stopped. There is no reason why they cannot go back across the rail bridge, across the Forth and up through Culross.

15:00

Colin Sloper: Unfortunately, I do not live in Clackmannanshire so I do not recognise the statements. Falkirk Council has never measured the decibels where I live. No one has come to my door. Furthermore, I do not know what the legislation or guidance is regarding vibration.

My experience is that at least six nights a week we are woken up by the noise. Not to put too fine a point on it, it is like an earthquake in my house. I have a one-year-old daughter in the next bedroom, and every night when I wake up I think, "This is the night I'm going to have to get my daughter out the house." It is not acceptable. As a citizen of Scotland, I say that it is not good enough.

Cathie Craigie: I understand that Transport Scotland was going to carry out a survey and report on the noise and vibration levels along the track. Has that survey been undertaken? If so, when are we likely to see the results?

Frances Duffy (Transport Scotland): That is the work that Mac West was referring to. Transport Scotland is working closely with Clackmannanshire Council and providing it with support to take that forward. It is the council that is carrying out the survey.

Cathie Craigie: So it is the council and not Transport Scotland.

Frances Duffy: We are not carrying the work out separately. We are supporting Clackmannanshire Council to do it locally.

Cathie Craigie: What is Transport Scotland's input? Does it concern you that a new transport link is causing such grief and disappointment to the people who live alongside the track?

Frances Duffy: We have been working closely with the council to provide it with support, including funding support, for the investigations and mitigation measures.

Cathie Craigie: Has the survey work been completed?

Mac West: Yes.

Cathie Craigie: How does Clackmannanshire Council feel about being the promoter of the line, given the indications back in 2003 about the number of trains that could be expected and the predicted noise levels, and what is actually happening now?

Mac West: We are disappointed that local residents are being disturbed. We are working with

Transport Scotland to put in place mitigation measures where the criteria are being breached.

My chief executive led a meeting with DB Schenker and Network Rail to discuss the possibility of reducing or ceasing overnight freight running. Unfortunately, at that meeting DB Schenker explained its view that in order to fulfil its contract to deliver coal to Scottish Power, it had to continue running services overnight.

Cathie Craigie: Mr Sloper, has the problem generally been in the night? I do not know which railway line you live close to.

Colin Sloper: Larbert. Trains going towards the power station are bad enough but the trains coming back are the 60mph ones. They are empty, and the vibrations are huge. I do not recognise what Transport Scotland is doing in relation to Clackmannanshire Council, unless someone can tell me that the council is undertaking a survey for all residents affected along the entire length of the line.

Cathie Craigie: That is why I wanted clarification. Surely it is not all up to Clackmannanshire Council. How is Transport Scotland resourcing the other councils along the route? I represent Cumbernauld and Kilsyth, and people in my constituency have to put up with the night-time running of freight trains. Surely, as the strategic transport authority, Transport Scotland has a role to play here.

Frances Duffy: The work that we are helping Clackmannanshire Council with is to monitor noise from the introduction of the new railway, not noise in the railway network as a whole.

Cathie Craigie: Does Transport Scotland have no remit for rail noise?

Frances Duffy: For rail noise as a whole?

Cathie Craigie: Yes.

Frances Duffy: It does not. Noise from a railway's general operations is covered more by environmental legislation. Mr McAulay will explain what happens on the existing railway.

Ron McAulay: I apologise that the explanation will start to become complicated, but I ask members to bear with me. Two railways are involved: one is the new railway that was built under the private act—the Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004—and the other is the operational railway that has been there for about 150 years. The railway that has been in place for a long time is covered by all the existing railway legislation, which applies across Great Britain. How all that applies in Scotland is no different.

The railway as a whole is a strategic transport network that is there to be used. The new railway's

benefit is that it has taken probably thousands of lorries off the road and put their contents on rail. Rail is a far more environmentally friendly means of transporting coal, although I understand the implications for local residents.

Anne Massie: We are aware of that.

Ron McAulay: Thank you.

In general, the line is there to be used at whatever hours allow it to be used—24/7. Freight trains run on the line already. Having coal trains on the line just increases the usage of the existing railway.

The Convener: What legislation regulates noise and vibration? Is it UK or Scottish legislation? How is it enforced?

Ron McAulay: It is UK legislation.

The Convener: Who enforces it?

Ron McAulay: I imagine that the UK Government enforces it.

The Convener: I do not know whether anybody can throw light on that.

The Minister for Transport and Infrastructure (Keith Brown): I understand that the Office of Rail Regulation determines that matter. However, a complication is that the 1996 noise regulations that have been referred to do not apply to Scotland, and no contemporaneous legislation was made for Scotland. That might have been an oversight, or perhaps it was assumed that the Scotland Act 1998—which was considered shortly afterwards—would deal with the matter. No noise regulations apply, but it is true to say that the Stirling-Alloa-Kincardine line has followed the standards that would apply if such regulations were in place.

I understand that the responsibility lies with the Office of Rail Regulation, but I am about to be corrected.

Ron McAulay: I apologise for correcting the minister, but the ORR does not deal with noise. The ORR is an economic and safety regulator, not an environmental regulator. Local councils' environmental health departments probably apply the regulations.

The Convener: Will Clackmannanshire Council clarify whether that is the council's role?

Mac West: I am not an environmental health officer, but I know that the council has considered the Environmental Protection Act 1990. Whether noise from a railway is classed as a statutory nuisance under that act is up for debate. There is no clear view on that.

Dr Simpson: We are going to the heart of the matter in national terms, to which the minister and Transport Scotland are important. As Mr McAulay

said, we are working with others to develop the network in Scotland to benefit passengers, freight and the economy. However, nobody takes responsibility for protecting citizens. No one authority stands up to say, "If a new development takes place, we are here for the citizens." I am concerned about that for the future, as well as for the cases that we are dealing with.

Everyone has simply handed the responsibility on to everyone else. We have not yet got an answer to the question why Clackmannanshire Council, which at the time happened to be under the minister's leadership—although I do not think that that is relevant—

Keith Brown: But you thought that you would just mention it.

Dr Simpson: Indeed. Clackmannanshire Council must have received instructions, presumably from the Labour Government at the time or Transport Scotland, that non-night running was to be part of the impact study. After all, we would not be sitting here now and the bill committee would not have debated the objections in the way that it did had the original impact study said, "There will be 24-hour running", or, "There is likely to be 24-hour running". The study and, indeed, the report specifically said that there would be no night running. No one stood up at that point and said, "Actually, Network Rail have to allow access". That has been made clear repeatedly; indeed, there is no question about that. Notwithstanding noise and vibration—the issue is irrelevant anyway because we have no powers over any of this—if the operator applies for access, if Scottish Power want it and if it is safe, these trains will run. I have received no answer from Clackmannanshire Council or Transport Scotland about how we ended up in this mess in the first place and why no one ensured that the bill committee could have a real debate about the real potential for 24-hour running.

The second part of my question is actually my original point: who protects the citizen?

Keith Brown: I will leave to one side the question of Clackmannanshire Council's role in this, which I have discussed with Richard Simpson before. I have seen the *Official Report* of the bill committee's deliberations, which shows that it was told of the likelihood of night-time running.

However, as Richard Simpson has pointed out and as has been pointed out at a previous meeting of this committee, the environmental impact study was heavily reliant on information provided by the Scottish Executive. I believe that Dr Simpson said that knowledge of railways was extinct for 25 years in Clackmannanshire Council; as members will appreciate, a small council that had no rail would have no expertise in that area and would

therefore be heavily reliant on the information in question. It is also true to say that as the bill proceeded the environmental impact study was not used because the concern was to promote the railway's construction.

Who defends the public interest is an important question—indeed, it is probably the crux of the matter. We have to accept that we have a privatised 24-hour-a-day rail network in this country. As I understand it—and I have been examining the issue for some time now—responsibility for legal action over noise abatement would fall to Clackmannanshire Council but it is fair to say that the outcome would be very uncertain.

On the separate question of who under the regulations is able to say that freight trains should stop running, I understand—I might well be corrected by Ron McAulay—that that power lies not with us but with the Office of Rail Regulation. If Richard Simpson or someone else can show us the legal basis on which we might be able to take action, I will be very interested in hearing what they have to say. However, the power is simply not there.

The picture is fragmented. I realise from meetings that I have had with constituents and others that people find that frustrating but the Scottish Government has no legal basis to act on this matter. That power lies with others, and it is up to them to explain what they can do.

Bill Butler: I have a couple of questions for the minister. First, is he able to reference for the record the exact part of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee's deliberations in which we were told that there would be night running? I cannot recall it.

Keith Brown: If I find the reference, I will be happy to give it to you, but it was in a question-and-answer session between Rob Gibson and Alex Deans, who said that, as has been mentioned before, the intended hours would be 6 am to 11 pm, although they could not rule out night-time running. I will pass that on to the committee.

Bill Butler: It sounds like a throwaway line to me, but, having, like many, sat through countless hours of that committee's deliberations, I would be really grateful for the reference.

Although I hate the expression, we are where we are and we have to try to deal with the problem. Did you say that Clackmannanshire Council is more or less responsible for noise mitigation and for trying to do the best for the people along the line who are affected?

Keith Brown: No. What I—and I believe Mac West—said is that the council has the power to take action over noise abatement, although the legal outcome is uncertain.

15:15

Bill Butler: But is the council responsible, through its environmental health or protection department, for trying to do its best for residents of Clackmannan in terms of noise mitigation? I direct my question to Mr West.

Mac West: In a general sense, yes—that is correct. However, it is very unclear—opaque is the word that seems to be in vogue—whether noise from a railway constitutes a statutory nuisance.

The Convener: Mr McAulay may be able to help us with that.

Ron McAulay: I do not claim to be a legal expert, so please take what I am saying as coming from a layman in that sense. Under the railway regulations, there is an immunity for railways from statutory nuisance, which means that we are exempt from that legislation. However, although the legislation has been there for many years, that has never been tested.

We seem to be concentrating on the potential to try to enforce things, but I am concerned that we—the rail industry, Transport Scotland, Clackmannanshire Council and Network Rail—have not got the noise barriers in place yet. We need to get those in place to see whether they make a difference and improve the conditions that many of the residents are experiencing. I appreciate that that will not help Mr Sloper, but it may help other residents along the way. That is the first step that needs to be taken.

I have looked very closely at all the results of the noise and vibration monitoring that has been carried out, originally by Falkirk Council, and most recently by Transport Scotland and Clackmannanshire Council as detailed in their report.

On vibration, it strikes me that all the readings are below any level that would cause damage to property. We need to consider the issues on factual evidence, and take readings to be able to measure them against things. Measuring noise and vibration is a very complex science, and I do not claim to be an expert on that either. However, the levels that we are finding in monitoring vibration suggest that the vast bulk of the readings are below what human beings would normally be able to pick up. So far, the study has shown that there is an impact on one or two properties that would mean that those residents might notice the vibration but it would not cause damage to property.

On the noise issues, we have identified 66 properties that would no doubt benefit from noise barriers. We need to get those barriers in place so that we can find out whether they make a significant difference to those people. Transport Scotland and Clackmannanshire Council are progressing that as quickly as possible. We are happy to help them with access if they need to come into the railway grounds to get the barriers in place. I think that the barriers will help to make a difference—perhaps not for everyone, but they will help.

Mrs Massie raised the issue of trees. I am not trying to be cheeky, but I have had some experience of that through the Airdrie-Bathgate Railway and Linked Improvements Bill. We had to go through various noise and vibration policies with the parliamentary committee to ensure that what we built would not create nuisance for neighbours. One thing that came across very clearly from the experts was that trees do not provide any noise insulation. I recommend the installation of the close-boarded noise barrier, because I think that it would make a difference.

The Convener: I think that Mrs Massie wants to respond, and Mr Sloper wants to say something about vibration. I am conscious of time, so we will have a final question to follow and then move on.

Anne Massie: I will be very quick. I have stood in my garden and waited for a train to come by. I hear the train coming from beyond my garden, where there is a field with no barriers whatsoever. I do not hear it when it is coming through my garden past the burn until it gets to my bedroom window. I hear it there, and then I do not hear it until it passes my garage. I have a long garden—it is an acre—and I hear it down there. I do not care what science says—the trees baffle the noise.

Colin Sloper: Nobody has undertaken vibration studies on my property or any other in my street or, as far as I am aware, on my estate. I would welcome the opportunity for vibration studies to be undertaken at my property, and I am sure that some of my neighbours would welcome that on theirs. I would also welcome the opportunity to understand at what level vibration becomes a nuisance, because I am sure that waking up a one-year-old at 2 or 3 in the morning is not good. If it is found that the vibration level exceeds the legislative standard, if there is such a thing, what will be done? I want an undertaking that something will be done. I am not on the SAK line, but it is unacceptable that I have a one-year-old who cannot sleep at night, a wife who is stressed by the situation and a house that has cracks in a wall. If it falls down, which I seriously hope it does not, who is liable?

Ron McAulay: It falls to me to answer that question, but I do not think that there is an answer

that you will find acceptable. The railway has been there for 150 years and the use of the railway is covered by the current legislation. I would hope that the vibration levels are not at any sort of level that would cause any damage to your property. Normally, the local council, which I assume in this case is Stirling Council or Falkirk Council, monitors vibration.

Colin Sloper: It is Falkirk Council.

Ron McAulay: All I can suggest is that Mr Sloper contacts the council and asks it to carry out monitoring. As to what happens with the results of that, I will not pretend that there is a magic wand to be waved that will address all this, because it is part of the existing operational railway.

The Convener: Mr McAulay, you said that you were involved in the Airdrie-Bathgate Railway and Linked Improvements Bill and that you talked about mitigation measures for some issues that arose in that regard. Mr Butler, were there similar discussions when you were convener of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee?

Bill Butler: Yes. Perhaps this is more for the conclusion of the discussion but, with regard to what Mr McAulay said about dealing with the present situation, a short to medium-term action has to be taken. I am aware that Transport Scotland and Clackmannanshire Council are working together with residents on mitigation and that Network Rail has made an offer through Mr McAulay about access. However, I suggest that through you, convener, we try to ensure that, although it will not be a complete fix, short-term mitigation is undertaken.

Is the Scottish Government willing to review the overnight running of freight trains on the SAK line to see whether it is possible to limit that with regard to time or number? Can it be ensured that modern wagons are used that cause minimum noise and vibration? Can it be considered whether it is feasible to reduce the number of wagons? Can the introduction of Sunday daytime running be considered in order to reduce the night-time use of the line? There is a raft of possible long-term measures that I would hope the Government would be interested in looking at, perhaps in conjunction with the Transport, Infrastructure and Climate Change Committee, if not in this diet then in the coming one. Consideration should be given to minimising the aggravation to citizens of Scotland that is caused by overnight running on the SAK line. Would the minister be willing to give an undertaking on that?

Keith Brown: I will address first the point that was discussed previously about on-the-record discussions and then come back to your second point. At the meeting of the Stirling-Alloa-

Kincardine Railway and Linked Improvements Bill Committee on 27 October 2003, Rob Gibson asked:

"Is it true that freight movements often take place during the night rather than when passenger traffic is greatest?"

Alex Deans answered:

"That might well be the case. Our indication at the moment, however, is that most of the freight movement will take place during the day because the main freight operator, Scottish Power, will need to transport coal to Longannet power station during that facility's operational hours. However, I do not think that we can guarantee that there will never be any night-time operations."—[*Official Report, Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee*, 27 October 2003; c 17.]

Bill Butler: I do not think that we are in disagreement here. The Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee looked at the issue of night-time running and paused for thought. It was told that it would happen on an exceptional basis. We were told 18 times in the impact report that there would not be the volume of night-time running that there obviously has been, so we are not contradicting each other, but what Mr Gibson was told—inadvertently, I am sure—did not give the whole picture, even if he was not misled. He was told that night-time running might happen in exceptional circumstances, but we have been told today that there was no guarantee that it would happen exceptionally. In fact, we have been told, frankly, that night-time running would be the way of it, despite what the bill committee was told 18 times in the impact report.

Therefore, minister, you can understand my concern and great aggravation, on the part not simply of members of the committee but of the public who, like members, listened to and took part in the bill process in good faith. I think that we are not in disagreement. As one of the local members, you must be as disappointed as I am. I pose that as a rhetorical question—I am sure that you would say yes. I asked whether you would give an undertaking to go ahead with a review, which could be held by this Government or whichever one succeeds it after the election.

Keith Brown: A number of the measures that you mentioned, such as those to do with the frequency of trains and the nature of the rolling stock and the sets that are used, have been looked at in depth. You have had answers from people who know far more about such matters than I do. Richard Simpson, I and others, along with some of the petitioners, have been looking into the issue for a number of years. I do not want to hold out any false hope, because that is the basis on which the trains are running. I repeat that the Scottish Government has no power to insist on any of the measures that you mentioned.

I understand your question about whether there is scope to do anything else, but I would not say that we are talking about a review. I am fairly new in this post and I will be happy to look at the information that the Government holds on the issue and to see whether it might be possible to bring the parties together to establish whether anything more can be done. We are talking only about practical possibilities, because we do not have the legal power to insist on any of the action that is sought, but discussions could be held.

Bill Butler: Following on from that, is the present Scottish Government—I know that you cannot bind a future Government, regardless of its political colour—willing to give an undertaking to work with Westminster colleagues in the present UK Administration on these matters? You made a fair point when you said that a collective response across the Governments in these isles is required. Would you agree to that?

Keith Brown: Yes, there are specific areas on which we must work jointly. I mentioned that the noise regulations have not been brought in in Scotland. I have already asked officials to bring forward proposals so that we can consider how to address that anomaly.

There is also the issue of the Office of Rail Regulation and whether responsibility for that should be devolved or reserved. We seem to have a very different picture for trains in Scotland. I will speak to Westminster colleagues about that in due course. I will be happy to pursue those issues.

The Office of Rail Regulation has just produced a report on the performance of the rail network, which I will discuss with it, and I will be happy to raise the issue of the Stirling-Alloa-Kincardine line.

Bill Butler: I know that you cannot say yea or nay on the reserved/devolved issue and neither will I—I will not fall into that elephant trap—but is it fair to say that you are saying to the committee that the present Scottish Government is not averse to working in co-operation with the Westminster Government under the present settlement?

Keith Brown: Those discussions will take place, regardless of what is reserved and what is devolved.

Bill Butler: Thank you.

John Wilson: I have a short question for Mac West. Clackmannanshire Council is talking about mitigation measures being put in place along the line where problems have been identified. Who will pay for those measures? Will the local authority take on that onus, or can compensation be sought from Network Rail, say? As I understand it, the construction of the SAK line attracted major public subsidy. It would be interesting to find out who will

pay for the mitigation measures that have been necessitated by the overnight running of freight trains along the line.

Mac West: On the SAK line, the vast majority of the funding came from Transport Scotland. It has a budget set aside for those mitigation measures.

John Wilson: In effect, it is the Scottish Government, through Transport Scotland, that is funding the mitigation measures.

Frances Duffy: Yes.

15:30

Robin Harper: My question is mainly for Neil McDonald of DB Schenker, but I would love to have the view of Ron McAulay of Network Rail on this, too. It came to our attention earlier in our investigation that the noise comes from old-fashioned bogies with old-fashioned braking systems and bogies that cause a lot of vibration. I presume that those bogies could be replaced fairly easily—you would only have to take the train into the depot, lift the wagon off the bogies, wheel the bogies away and wheel new bogies in underneath. It would not cost £100 million to do that to a train set. It has also been suggested that DB Schenker owns some train sets, which it is using elsewhere, that use more advanced technology. What is that technology? Are the bogies that you are using fitted with the most advanced braking systems? Are they designed to reduce vibration levels? Would you be able to find train sets to use up here that are appreciably quieter and cause less vibration? If not, why not?

Neil McDonald: I can answer that in a number of ways.

The Convener: I ask you to answer it in a number of ways as briefly as possible, as we have gone over time.

Neil McDonald: Certainly. EWS—now DB Schenker—was formed in 1996 and has spent more than £800 million on renewing rolling stock that was bought from the Government in 1996 when it was almost 40 years old. Those were two-axled vehicles and we replaced them with the most efficient wagon in the marketplace at that time. For our first wagons, we invited over a company from America, Thrall, and it set up a plant in York. We had a contract with it to develop various types of wagon over a three-year period, and the later of those wagons were the heavy-hopper wagons that are associated with the coal movements. We have 1,140 of those.

Technology has moved on since then. In 1999, a bogie was introduced into the marketplace that is marketed by one of our sister companies and it got its first set of orders in 2001.

The Convener: Mr McDonald, I do not mean to be rude, but I am very conscious of the time. Could you supply Mr Harper with a written response to his question?

Neil McDonald: Yes. There is just one final point that I would like to make.

The Convener: Very quickly, please. If you could submit written evidence bringing us up to date, that would be useful. I am conscious that the minister has to go to another committee and he is with us for consideration of the next petition.

Neil McDonald: Those wagons replaced wagons that were far noisier. There has always been noise in the rail network but, at that time, those wagons reduced the noise level. As technology has moved on, different types of bogies have been produced, but we have none of them in our coal fleet. We have them on other types of wagons but not in our coal fleet.

Dr Simpson: I have one tiny question. I asked the minister's predecessor to look at whether the paths over the Forth bridge were still open and whether it would, therefore, be possible at some points during the week to use those paths for the smaller wagons in order to eliminate the overnight running. Is that a possible alternative? I do not know whether an answer has come back on that.

The Convener: In addition, is there a possibility of some Sunday running? I recognise the limitations, but could a solution be found through a variety of different means?

Keith Brown: The answer to the first question is no. Those paths on the Forth bridge are not available, as I understand it, although I stand to be corrected. I cannot answer your question on Sunday running.

The Convener: It seems to me that it might give DB Schenker the 24/7 running that it wants, and Network Rail is saying that there could be some Sunday availability.

Ron McAulay: I could give you a hugely long answer if you really wanted it, but I know that you do not.

The Convener: No. You could give us it in writing in that case.

Ron McAulay: The answer is that it would be extremely difficult to accommodate Sunday running. Trying to find train paths from Hunterston all the way through to Longannet in what is already a congested network where we need to get in to do maintenance work would be very difficult.

The Convener: Thank you for your evidence. It is over to the committee now to decide what we do with the petition.

Bill Butler: This has been a fairly detailed evidence session. I do not think that I am going overboard by saying that it has not been entirely satisfactory.

Given that we are near the end of the parliamentary session, I suggest that, in the short term, the committee writes formally to Clackmannanshire Council, Transport Scotland and Network Rail to see how they are proceeding with regard to mitigation measures. I am looking for a timetable of co-ordinated co-operation across all the organisations involved to try to get some relief for constituents along the line. I did not get a chance to ask this but, as well as asking formally about mitigation measures, we should ask Clackmannanshire Council whether it would be willing to consider compensation in the worst cases as well as mitigation.

I hope that I am not misquoting the minister, but he said that the Government would not be averse to a review of the larger matters that we have been able only to touch on—these are important matters, but they are not easy to deal with—and that such a review would be undertaken by whoever is re-elected in May, in co-operation with the Westminster Government, because there are overlapping reserved and devolved matters involved. I hope that that would be helpful.

Finally, I suggest that we consider putting this in a legacy paper for our successor committee. We could say that the successor committee could, if it wished, press the Government at Holyrood for a review and consider referring the petition to the transport committee that will be in place. I am well aware that those suggestions will not meet the aggravation suffered by the petitioners, but they are the only things that I can think of at the moment.

As for the historical stuff, I will leave that sticking to the wall. However, I am not the only one; I am sure that every member of the former Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee has been dismayed at what occurred. Anyway, we are where we are.

Nigel Don: I am very conscious, and a little surprised, as others will have been, to discover that the Scottish Government really does not have many powers on these things at all. I wonder whether, apart from anything else, we might write to the Westminster Government to ask what it is proposing to do about it. If powers were simply not given as a mistake, presumably somebody somewhere needs to worry about that. I think that I heard the minister say that he simply did not have the powers and it was not obvious that anybody else had them either. We should ask Westminster whether it has considered that and whether it will consider it.

The Convener: I do not know whether there is clarity at this stage about who should have done what and where it should have been done, but we certainly need to get to the bottom of that. It occurs to me that the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill went through on the specific understanding that there would not be night running. It turns out that the reality has been very different and there do not appear to be any powers to deal with that. There is an issue for Parliament here in terms of its passing legislation without any powers to do anything about such things. I wonder whether it is worth writing to the Presiding Officer about that.

Bill Butler: We could do that, but the private bill process has now changed utterly. I am not saying that a terrible beauty is born, but it is certainly a different process.

I take Nigel Don's point. We could productively write to ask the Westminster Government whether it is willing, if approached by the current or a future Scottish Government, to work in co-operation to deal with these matters, which are complicated, as they involve overlapping devolved and reserved responsibilities, but which need to be tackled.

Cathie Craigie: I agree that we should do that. However, before we do, can we write to ask the Scottish Government to share with us the contact that it has had with Westminster over the issue? It is the wrong way around for us to write to Westminster before we know what the Scottish Government has been doing.

John Wilson: Could we write to ask Scottish Power where it is with the renewal of the contract with the Clyde Port Authority for the supply of coal? Has Scottish Power looked at alternative routes for getting the coal into Longannet?

The Convener: We will have to finish there. This has been a long session. I thank you all for attending and for your help at the committee today.

A90/A937 (Safety Improvements) (PE1236)

The Convener: We need to carry on because we have a long agenda. PE1236, which is by Jill Campbell, is about the A90/A937 at Laurencekirk. I understand that the minister would like to make a short opening statement.

Keith Brown: Thank you convener, and I thank the committee for inviting me to address PE1236. Although I am familiar with the A90 from being a frequent user of the road, I took the opportunity recently to visit all three of the junctions that are adjacent to Laurencekirk on the A90. At the same time, I met the petitioner, Jill Campbell, and I listened with interest to the issues that she raised. I am grateful to Ms Campbell for her participation

and her on-going interest in road safety matters on the trunk road in the vicinity of Laurencekirk.

I will take this opportunity to clarify the decision to grade separate a number of junctions on the A9. As Transport Scotland advised in its letter of 19 October 2010, the decision to grade separate the junctions at Keir, Inveralmond and Broxden arose from outcomes of the strategic transport projects review. I mention that because that is one of the issues that the committee has carried over. In roads programmes, it has always been the case that some road improvements are carried out for safety reasons and some are done for other reasons. The improvements that I have mentioned will remove congestion at those locations, thereby contributing to reduced journey times, improved reliability and improved road safety along that nationally strategic corridor. That decision, which was based on the need to remove congestion, is common to several major trunk road schemes throughout the country, including the M74 completion and the Aberdeen western peripheral route.

I am familiar with the issues around the petition, and I and my officials will be pleased to answer any questions.

The Convener: Thank you, and I welcome Mr Anderson and Mr Gillies to the committee.

Nanette Milne (North East Scotland) (Con): Minister, what time of day did you visit the Laurencekirk site?

Keith Brown: It was during the evening rush hour.

Nanette Milne: What time was that?

Keith Brown: It was between half past 5 and 6 o'clock.

Nanette Milne: My understanding is that the visit did not completely cover the evening rush hour.

Keith Brown: It was a quick visit. I am happy to concede that point.

Nanette Milne: Right.

I am well aware of where the junction is. There is a significant impact from the use of the junction by people who live in Montrose who cross to turn north as they commute to Aberdeen. There is also a significant amount of development taking place, and that is likely to continue in the future. Have those things been taken into consideration in your deliberations on what is to be done?

15:45

Keith Brown: Yes, they have, in the work that Transport Scotland has done hitherto. Coming from Montrose, we went across the carriageway at

the junction that you mention, and we came back from that junction, because I understand that that is where traffic backs up, especially in the mornings. That has been taken into account. As I am sure you know, improvements have been carried out to help to address the situation, although they have not been finalised yet.

The point about the potential for development has been well noted by Transport Scotland and the local council in considering how matters might be moved forward.

Nanette Milne: It has also been put to me that there is an issue not just for traffic turning on to the road but for traffic coming from the south, say from Brechin, and heading north. Drivers who do that journey say anecdotally that cars often pull out in front of them unexpectedly and they have to slow down. I think that that is due to driver frustration at the junction. As you know, that makes people feel strongly that the only really safe solution to the problem is a proper grade-separated junction.

Keith Brown: I understand the strength of local feeling on the issue. I have discussed it with a number of members, including Nigel Don and Mike Rumbles. I refer back to the safety study that Transport Scotland did when the STPR was being put together. The matter was taken into account at that time, which is why improvements to two of the junctions have already happened. The improvement to the third one is still to happen, and I think that it will have an effect. However, I understand your point about the local concerns, which I heard when I met Jill Campbell.

Nigel Don: I note that there have been various inputs since our previous discussion on the petition, but I refer in particular to a letter from Councillor David May, an old friend, who I see is in the room, who tells me that, if we go to the junction to sample what happens early in the morning, he will buy us breakfast. Well, he owes me breakfast already, because I have already been there.

The minister has seen the data, which confirm that the traffic picks up rapidly at about a quarter to 7 in the morning, and heading north it continues to be significant until 8 o'clock. Incidentally, the traffic heading south picks up at about 8 o'clock and carries on from there, which is rather surprising.

The junction is horrible, and unless we do something it is not going to get any better, for reasons that have already been discussed. The difficulty that I have is knowing how we are going to make improvements happen, and we have got to make them happen. I have had conversations with Aberdeenshire Council about how we might get money into the system for flyovers and grade-separated junctions on the road at Laurencekirk,

both northbound and southbound. It has spoken about section 75 agreements, with which the minister and others will be familiar, and the amount of money that we might be able to get.

The sticking point, as I see it, is that we simply do not know what the cost would be. We have had a wide range of estimates from, I think, £4 million to £22 million. That is a huge problem. I wonder whether we can do something to narrow that range, so that we can talk to the local council and potential developers with a real understanding of what the work would cost and what the possibilities might be.

Keith Brown: I certainly understand that, because different partners are involved, such as developers, the council, Transport Scotland and others, it would be useful to have greater certainty about the final costs. I saw the *Official Report* of the committee's previous meeting at which the petition was discussed, and a lot of the discussion was about the costs. I think that you noted the difference between a bottom figure of £4 million, which was heavily caveated, and a top figure of £20-plus million.

I also recognise that the Aberdeenshire local development plan action programme looks for developers to provide a grade-separated junction at Laurencekirk. To that end, I told those whom I had already spoken to about the matter that I would take a fresh look at it. I did that, and although I note the work that has been done up to now, I believe that the point about uncertainty is a fair one, so I have asked Transport Scotland to undertake what we are calling a cost refinement exercise to provide developers and others with a better basic understanding of the amount of money that would be required to fund an upgrade. That is not the full process that would normally be followed under the STPR, and, although I expect that greater clarity can be provided, there is still a heavy caveat, as works will not be undertaken as if the project was going ahead at this stage.

The factors affecting the final cost of construction schemes are numerous and complex, and it should be understood that the outcomes of the exercise that I have asked to be undertaken will provide only a preliminary figure that in no way represents a final cost estimate. Also, it will not produce a scheme layout, to which the Scottish Government and its agency, Transport Scotland, are committed. However, it is my intention for the exercise to narrow the doubt as far as possible and to narrow the wide range of between £4 million and £23 million. That will be helpful to all who are involved.

Nigel Don: That is enormously welcome—it will be good just to get some clues as to what the number is really going to be, rather than dealing with the ridiculously wide range of figures that

have been thrown at us. That will enable those of us who are concerned about the matter to continue to talk to people and to find a way of getting the money together. That is hugely welcome.

Cathie Craigie: The local member brought to the committee's attention the fact that the minister has agreed to build three grade-separated junctions between Perth and Stirling, albeit not personally—you are not doing it yourself. The petitioners and the member for the area are genuinely concerned that an error has been made in the decision-making process. It seems that, over the past 11 years, there have been no fatalities at the areas where those three grade-separated junctions are being built, whereas there have been four fatalities at the junction at Laurencekirk.

I know how long it takes to build up major transport projects, as I was involved with the A80 and the grade-separated junction at Auchenkilns. I held my hands up at one meeting and admitted that I did not know what a grade-separated junction was until the Auchenkilns roundabout was removed. Anyway, among the plans for major projects that were to be carried out, where was Laurencekirk and where were the other three projects? I ask you also to refer to the various studies that have been done over the years, through which we plan ahead and determine what capital works are required. Has a mistake been made, as the petitioners feel might be the case?

Keith Brown: No, mistakes have not been made, and all cases were analysed.

It is interesting that you mention Auchenkilns. In that case, I knew what a grade-separated junction was but I did not know what it was called, prior to getting this job. That project showed how hard it is to judge the exact cost in advance. You will remember better than most people the complications that arose when that work was undertaken.

In my area in 2001, a new road project was undertaken in an area that was not deemed to be particularly unsafe and which was not in any scheme or programme. We have also pushed forward with the Forth road crossing, which is driven not primarily by safety but by the economy and other factors. All those factors are taken into account.

I am happy to allow David Anderson or Hugh Gillies to discuss the process that has been developed, as they have been involved for longer than me, but to my mind it is entirely reasonable for the STPR to include projects that are undertaken for reasons other than safety, as well as for there to be a balance of projects that are undertaken for reasons of safety.

David Anderson (Transport Scotland): That is absolutely right. As the minister mentioned in his opening remarks, the STPR started by considering the longer-distance commute and strategic linkages, which have already been discussed today. The STPR therefore considered both road and rail links.

One key reason for considering upgrading the junctions on the A9 is that it connects the country together. There can be significant delays at each of the roundabouts on the A9, as has been mentioned. The aim is to improve connectivity and the reliability of flow. Those factors were included in the recommendations for dualling up the A9.

The Laurencekirk junction was considered in the context of how the A90 works as a connectivity corridor. The A90 works very well, in general. It is a dual carriageway with a number of junctions, and clearly accidents happen at some of those junctions at times. However, the accident rate on that corridor in general is lower than it is at other parts of the network. For that reason, the addition of a specific junction at Laurencekirk—in the context of the STPR, which considered the really big stuff—was not included.

Cathie Craigie: Does that stand for the strategic transport projects review?

David Anderson: Yes.

Cathie Craigie: When was that review undertaken?

David Anderson: It was undertaken over 2007-08 and was reported on to Parliament in December 2008.

Cathie Craigie: Right. There have probably been a few strategic transport reviews, but I know that one started in 1997 that said what the major transport programmes would be for 10 or 15 years or whenever. Did work at Laurencekirk go up or down in the order of importance in the review that was completed in 2008?

David Anderson: The review was not carried out like that. It was not a case of having a list and working out the pecking order. The evidence from a 20-year period was looked at, and it was asked what Scotland needs to achieve the purpose of sustained economic growth and all the other things with which members are more familiar than I am. It was about asking what things we should consider doing over the piece and coming up with a number of ideas and options.

What was confusing about the STPR was that we had a list of things that people wanted to be considered as part of strategic projects, and we had to go through them and say, "Is that in or out? Should we or should we not do that?" We went through that process in a transparent manner and considered the objectives for individual corridors.

In certain corridors, the issue was improving safety; in others, it was improving connectivity or doing a number of different things, all of which were tied to the national transport strategy. However, the exercise was certainly never a ranking exercise. It was about considering the evidence and the correct generic solutions, the details of which could change and be developed over time, as it was recognised that the fixes were not all easy.

Cathie Craigie: You will understand that I took great interest in previous strategic transport reviews—until I got what was necessary in my constituency, I suppose. From memory, Governments would put in programmes, and whether a particular project was to be done within a year, two years, five years or 10 years indicated the importance attached to it. Was that approach taken?

David Anderson: When we initially worked on the STPR, it was stated that it would follow the current programme, which contained a number of items and was published on Transport Scotland's website. We certainly always looked beyond that. The STPR always looked to the medium, long and very long distance, and tried to get away from the idea of a pecking order and moving things up and down. Rather, it was about considering what we need as a country.

The Convener: I welcome Mike Rumbles to the meeting. Nanette Milne wants to get in on that specific point, but do you want to get in on it, too?

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Yes. I want to ask about Mr Anderson's evidence. As the local constituency member, I am frustrated and quite angry at the evidence that he has given to the committee. I am very angry that he has said to the committee that the route in the corridor works very well in general. I know what he is trying to say—that the accident rates are okay on the A90 between Dundee and Aberdeen. He did not say that, but that is what he implied. I am very angry about that for my constituents in and around Laurencekirk because, from the very start of the process, the previous transport minister made it clear—he did so under questioning—that he put nothing into and took nothing out of the plan that Transport Scotland gave him. Therefore, the plan is Transport Scotland's; it produced it. That is what the previous transport minister said in Parliament.

The accident statistics following the safety measures that were introduced in 2005 were disputed right from the beginning, until the minister understood that they were his and Transport Scotland's statistics, through Grampian Police. We did not bring any new statistics. The accident rate at the three junctions around Laurencekirk has

increased since the safety measures were put in place. That is beyond dispute.

16:00

When we asked for an estimate of the cost of building a grade-separated junction at Laurencekirk, we all understood that a cost could not be given unless a plan was done. The response from the minister was £23 million. When we found out how he got that figure, it turned out to be the most expensive grade-separated junction ever quoted in Scotland. The quote came from Transport Scotland. That is one of the things that annoys me about the obfuscation that we have experienced. When we delved further into Transport Scotland's report, we found that it had indicated that the junction would actually cost about £4 million, because it would be very straightforward.

We were then told that, from the previous minister's point of view, the most important aspect of transport was road safety, and that he had other priorities on road safety. The other campaigners and I said, "We hold our hands up. If that's true, Laurencekirk will take its place in the queue." We asked him what those other priorities were and he was not forthcoming. We looked at Transport Scotland's plan, which the minister had approved, and found that over the past 11 years there had been no deaths at any of the grade-separated junctions that the plan had identified. We suddenly find that the previous transport minister's number 1 priority—to save lives—does not apply to Laurencekirk, where there have been four deaths and some serious accidents.

My question is simple. The campaigners and the people of Laurencekirk and the Mearns do not expect Transport Scotland, or indeed the minister, to come to this meeting with a bag of cash and say, "There you are. We're building a grade-separated junction at Laurencekirk." What we are looking for is justice—we want the right thing to be done. We are asking the transport minister to put together a plan so that an essential road safety scheme for Laurencekirk can be included in the strategic transport plan. According to the advice from Transport Scotland, the minister can do that. This is about ensuring that the Scottish Government honours its responsibilities for the trunk road network and does the right thing at Laurencekirk. We are looking for a long-term solution, not a short-term bag of cash.

Keith Brown: As I said earlier, and as I have expressed to Mike Rumbles and others in my discussions with them, my intention has been to try to move things forward as best I can and to try to eliminate some of the doubt about the cost of any solution, not least because other people would end up paying substantially for it. I have done that

in good faith, which I had hoped would be welcomed by Mr Rumbles.

I totally support the idea that many of the projects in the STPR have a rationale other than safety. That has always been the case. That has been the case for every Government in the past, and we are following that proposal. The STPR was the first attempt to consider transport, across modes, as fairly and transparently as possible.

Cathie Craigie talked about lining up a series of projects. I am trying not to make a political point, but if you do that, and then you have an £800 million cut to your capital budget, the plans lie in ruins. In the past, there was at least an expectation of stable or increasing capital programmes. It is no longer possible to plan on that basis.

I have come to this fresh, but I have talked to Jill Campbell and I am genuinely trying to find a way forward. That is how I intend to proceed.

David Anderson: On Ms Craigie's question, I was seeking to describe the process that was gone through in the STPR. Mr Rumbles is correct to paraphrase, and perhaps to put more eloquently than I did, the concept of the length of the road corridor. It is also worth recognising that the first recommendation in the STPR was to implement the road safety plan.

John Farquhar Munro: What criteria would need to be employed at the Laurencekirk junction to justify it being included in the next 10-year cycle of the STPR?

Keith Brown: The obvious point to make is that the ability to work through the projects in the STPR will be driven by the money and resources that are available. The project is in the STPR, and we considered it previously on the ground of safety. What seems to be causing something of a bottleneck is the wide variety of cost estimates. In this situation—unlike in many other road projects—where a third party will be involved in paying for the work, trying to deal with that uncertainty is the right way to move forward. It is not possible to give a definite answer about how long that will take. I am concerned to work out how things can be moved forward in the meantime.

John Farquhar Munro: Can you give an undertaking to ensure that the junction, with all its complications and road safety issues, will be included in the next STPR round?

Keith Brown: Unfortunately, I cannot give much of an assurance beyond the next short period. However, I would not be undertaking this work unless we were seriously thinking about what we can do in relation to this matter.

Incidentally, this issue is not the only one that we have considered. When I went up to the

junction recently I came back down during the hours of darkness, and I was struck by the fact that many similar junctions that involve people turning right off a carriageway—although they do not necessarily feature two or three junctions together—are well lit, but that junction is not. I asked—and I am still asking—Transport Scotland to tell me about the extent to which such lighting can improve the safety record. The initial response that I have received is that it would not have that much of an impact at Laurencekirk.

There is a question about whether we should spend between £500,000 and £1 million on something that might not have a big effect and which might be superseded by a more substantial project, depending on other developments. However, such issues are worth thinking about, and I stress that I am trying to consider the issue afresh, from a different angle, to see how we can move things forward.

The third part of the safety measures that were previously committed to—the final one, which concerns the northern junction—has not yet been completed. We will soon have an indication about how those measures are working.

Bill Butler: I accept that you are coming to this issue with a fresh approach and in good faith—that goes without saying.

You said that you have asked Transport Scotland to consider conducting a cost refinement exercise in respect of a grade-separated junction at Laurencekirk, in order to get a more focused costing rather than the range of between £4 million and £20 million. Is that correct?

Keith Brown: Yes.

Bill Butler: That is certainly an attempt at a fresh approach. Can you, without breaking confidences, say whether you mentioned that when you met Jill Campbell? If you did, what was her response? If you did not, what was her response to the general discussion?

Keith Brown: I did not mention that to her. We had a discussion that included the potential for developments around the junctions, which was perhaps a trigger for considering the sort of exercise that you mention. The exercise might be useful in this case because the work involves other parties who will have to calculate the amount that they would have to invest in the work.

We had an amicable discussion about her concerns about the junctions, and I took in information at that time.

Bill Butler: Mike Rumbles can speak for himself, but I believe that the paramount concern of everyone who is concerned about this matter—the petitioners, the constituency member and his constituents—is safety, and the improvement of

the junction. To an extent, I am encouraged by the fact that you have at least asked Transport Scotland to consider issues around what was, in my old councillor days, described as improving the lux factor—in other words, the lighting in and around the area. That might or might not be advantageous, but I am grateful that that is being explored.

When will the cost refinement exercise be completed, approximately?

Keith Brown: That is a good question, which my officials might be able to answer. It will be initiated soon.

David Anderson: I am afraid that we do not have a timescale for that. The minister asked us to carry out the work, and we are working through how long it might take. One issue is how much detail we go into. At present, as the minister suggested, we are not being asked to do a “Design Manual for Roads and Bridges” stage 2 exercise, which would be a considerably larger exercise.

Bill Butler: But we are talking about months, rather than a year.

David Anderson: We have been asked to undertake a relatively short exercise.

Bill Butler: You say “a relatively short exercise”—that is what I wanted to hear; I did not want a final date. I take it that when the exercise is completed, the Government—whichever Government—will return to the petitioner, the constituency member and all the interested parties to discuss the results.

Keith Brown: The real purpose of doing that is to make some of the interested parties more aware of the information—or to give them better information—on which they can base decisions. We want to make that available to all interested parties, including the petitioner.

Bill Butler: If the cost refinement exercise refined the cost in a way that was advantageous to what the petitioner desires—and what I guess most folk desire—would that help in moving Transport Scotland to say, at least, that a grade-separated junction at Laurencekirk would be, to use a non-technical term, a goer?

Keith Brown: To go back to my previous point, the vital funding decisions will be taken by people other than Transport Scotland, so it would depend on that.

Bill Butler: Sure.

Keith Brown: On a note of caution—because I do not want to give the impression that this is more than it might be—I should say that the report will be heavily caveated because of things such as ground conditions and some of the other

imponderables, as I mentioned in response to Cathie Craigie’s example of Auchenkilns. It is worth bearing that in mind, but I am hopeful that the report will give better-quality information to those who are taking the decisions, which includes—although not exclusively—Transport Scotland.

Nanette Milne: I have a small point that relates to process under the STPR. How much consideration is given to the disruption and interruption in such a corridor each time there is a serious or fatal accident? The roads can be closed for many hours at a time.

David Anderson: That was of interest at the STPR level, which is very strategic, but it was related to the number of accidents. One of the other corridors that we looked at was the A82, which has very different challenges.

We consider the interruption that is caused to the network as part of our management of the network itself. We keep monitoring the network as a whole to see where the accidents occur; that work is on-going. If there are any patterns, we would take action to redress those. We do not consider the issue directly, but through the proxy of on-going monitoring.

Mike Rumbles: This discussion is interesting, but I am very disappointed. The minister said that there will be a cost refinement exercise for developers—that is what he started off saying; then he added that it would be for other interested parties. Transport Scotland has already stated in its own report, which is heavily caveated, that the cost of the junction will be £4.3 million. Is the minister aware of the cost for every death that we have had at the Laurencekirk junction? If we consider the cost of police, fire and rescue, ambulance services, road repairs and everything else, the total comes out at almost £1 million for each accident. That means that £4 million of taxpayers’ money has already been spent for the four deaths so far and there are many more accidents in and around Laurencekirk. The minister should put the emotional topic of deaths to one side—as difficult as that is—and consider the money side of the issue.

What irritates me more than anything else is that we have a minister here who has responsibility for Transport Scotland and we are looking at the transport budget, but we are not considering the fact that the taxpayer is paying for all the problems at Laurencekirk. If the £4.3 million had been spent at Laurencekirk, we would have saved lives as well as money. That is an awful thing for the relatives of the dead, who are listening to the debate today, to cope with. We are interested only in ensuring that we save lives and spend taxpayers’ money well. That is a win-win situation for everybody. I return to the point that, when Mr

Anderson is looking at the strategic view of the corridor, he should look at how we use taxpayers' money to the best effect, especially when we are looking to save lives.

16:15

I make this plea to the minister, who, I am pleased to see, has listened to everybody so far—I am just worried that he is listening too much to his civil servants. Let us reconsider the junction and refine the costs again, looking at the wider context of the spending of taxpayers' money. I ask him please not to rely on developers coming along and paying for the improvements. Please do the right thing and put it in the strategic plan. We do not need to spend the money before May 2011; we just need a commitment for the future that it will be spent after that. We want a commitment to do the right thing.

Keith Brown: I apologise if I am wrong, but I am pretty certain that I never said that this was being done for developers. The *Official Report* will tell us whether that is true.

Obviously, I and everyone here regret any death on any public road. Trunk roads comprise about 6 per cent of the roads in this country, yet they account for two thirds of the traffic. There are historical pressures on trunk roads that cannot be solved in any one period, so we must prioritise—it is as simple as that. I make the point again that, if we lose a substantial amount from our capital programme, that will have an impact on the projects that we can proceed with. I do not accept that the real cost is £4 million. I have read the same papers that Mike Rumbles has read and I do not accept that that is the real cost. Neither am I willing to accept, on the basis of the papers that I have seen, that the junction would cost up to £23 million. The point of asking for the cost refinement exercise is to get more certainty about the figure. We are trying to move the thing forward, and decisions on where we go will be better informed after the cost refinement exercise—that is why I have chosen that route.

Hugh Gillies has more information on the points that Mike Rumbles has raised.

Hugh Gillies (Transport Scotland): The figure of £4.3 million refers to a BEAR Scotland report that was published in October 2009, which was distributed among the committee. A refinement was added to that, which was provided to the committee, for clarification. BEAR Scotland clarified that the estimate of £4.3 million was misleading and that what was meant should have been better defined. A lot of potential additional costs were not added into that figure.

The reason why the BEAR report of 2009 was produced was—you are right, Mr Rumbles—that

there have been changes in accident rates over the three junctions. The accident rate at the southern junction, since the first remedial measures were carried out in 2005, has gone backwards in terms of both number and severity. Yes, there was an increase in the accident rates at the middle and north junctions; hence, the remedial action that is taking place inclusive of the outstanding north merge junction improvement.

Mike Rumbles: Can I respond to that, convener?

The Convener: Very briefly.

Mike Rumbles: The BEAR report that was produced for Transport Scotland was a standard report. Time and again when we address the issue, we look at the accident statistics, but there is no dispute about the accident statistics. I get irritated when I am told that the accident rate at the southern junction is slightly better. We must look at all three junctions together. The plan was to build a grade-separated junction at the southern exit and to close off the middle and northern sections so that people could not cross the dual carriageway. Laurencekirk must be looked at as a whole. Please do not mislead members of the committee by saying that the accident statistics have improved. The situation around the three junctions at Laurencekirk, since the short-term, temporary safety measures were put in in 2005, has got worse and it is only a matter of time before we have another death at that junction. That is what this is all about.

Nigel Don: I understand what Mr Anderson is saying. I know where he is coming from and I do not want to attack him. However, it is not terribly interesting to people who live in Montrose, Marykirk or Laurencekirk, on the A937, which crosses the A90, to be told that the A90 is the priority. If you live on the A937, you have no alternative way of getting to other places. There are no options—that is your road. If the junction is dangerous, as it is—I invite anyone who does not believe that to try driving across it in rush hour—that is what you see. It does not matter how many thousands of other people go up and down the other road. That is of no interest to you if you want to cross it.

David Anderson: I agree entirely—transport is an entirely personal thing. People make choices about transport all the time based on their own interests. If they are on a particular road, that is the road in which they are interested.

The Convener: I invite the committee to consider how it wishes to proceed with the petition.

Bill Butler: I suggest to colleagues that we continue the petition, as there are many questions that must be answered or clarified. Like other

members, I welcome the minister's instruction to Transport Scotland to undertake a cost refinement exercise. That is not the be-all and end-all, because it is the result of the exercise that will be of interest to everyone concerned.

We should continue the petition and await what we hope will be early reporting of the exercise's conclusions, which, I hope, will be able to come before this committee. If they cannot, it is one of those cases in which we are left with no option but to include the matter in our legacy paper, if colleagues agree, and to make a strong recommendation to the successor committee. I hope that the exercise will be focused, targeted and reasonably rapid, so that we can look at the petition again, but there are issues outstanding. We all, however, welcome the fresh eye that the minister has cast on the matter. Let us hope that that moves things forward.

The Convener: Does the committee agree to that approach?

Members *indicated agreement.*

The Convener: We agree that the petition will be continued on that basis.

Mike Rumbles: In his response to questions, the minister challenged the Government's own statistics on how much it costs—the figure is almost £1 million per accident—to clear up after a fatal accident. Those statistics are not my statistics or the campaigners' statistics—they are Government statistics. Will the minister be invited to write to you on the issue? I would like to see his reasoning for challenging the Government's statistics.

The Convener: I am sure that the committee would welcome some clarity on the issue.

Keith Brown: I cannot respond to that, as I never challenged the stats that were mentioned. The *Official Report* of the meeting will show that.

Bill Butler: To be fair, I do not think that it was a challenge. According to my recollection—I am sure that the *Official Report* will show this—the issue of the total cost of clearing up after a fatal accident was mentioned. Like other members of the committee, I am sure, I would like the Government to provide a response in purely informational terms. That would be satisfactory to all parties.

The Convener: Absolutely.

I am conscious that the minister has had a long afternoon, but I understand that he is prepared to give us a quick update on the progress of PE1098 from Lynn Merrifield and PE1223 from Ron Beaty, on school bus safety. We will not come to the petitions until later in the meeting, but given that the minister is here and that we have some

frustration about progress, I wonder whether he will be good enough to give the committee a quick update.

Keith Brown: All that I can say is that I have written to Mike Penning, the relevant minister at Westminster, to see whether he can take the matter forward. I was involved to some extent in a previous role, but the matter was taken forward by Stewart Stevenson. I have asked to have further discussions with Mike Penning on the issue. A joint letter about new regulations that are to be introduced has been agreed between the two of us.

I was not expecting to discuss the matter today, but I can get more information to the committee. I am happy to give you a copy of the letter that I have sent to Mike Penning asking for an early discussion, if you do not have it already. Essentially, the discussion will be about the devolution of powers to insist that school buses have seat belts. That is the point that we have reached; I have not yet received a response.

The Convener: Thank you very much for that helpful information and your attendance this afternoon—and I understand that you do not now have to attend your other committee meeting. I also thank Transport Scotland officials.

New Petitions

Hospital Education (PE1381)

16:25

The Convener: Item 2 is consideration of eight new petitions. As this will be the last meeting at which new petitions will be considered, the committee has agreed not to take oral evidence in order to get as many new petitions as possible on to the agenda.

PE1381, by Gwen Garner on behalf of Action for Sick Children (Scotland), is on education provision for children and young people absent from school because of illness. Do members have any suggestions on how to proceed with this petition?

Bill Butler: We should continue our consideration of the petition and write to the Scottish Government, asking for its response to the petitioner's points and whether it will act on her request. We could also ask the Government about variations in the practices of education authorities in delivering education to sick children after five days, or sooner when it is known in advance that the length of their absence is likely to be longer than five days; whether it is concerned about those variations; about the measures that it will take, the recommendations that it will make and with whom it will address these issues; and about its response to the seven questions set out in section 5 of the petition. That would be a good start.

The Convener: Does the committee agree?

Nigel Don: I wonder whether we can break the cycle of sending and receiving letter after letter by saying in our initial letter to the Government that we simply want to sort this matter out and that, if we have not asked a question about something that needs to be sorted out, it should just sort it out instead of simply continuing the cycle of letters because we did not ask the right question.

The Convener: Taking a bit of a liberty as committee convener, I should say that, having had a daughter who many years ago had many hospital stays, I am well aware that the issue has needed to be sorted out for a long time now.

John Wilson: Given that, depending on when the calculations are made, school absences can lead to problems in teaching time and school rolls, I suggest that we seek the Educational Institute of Scotland's views on how we might move things forward.

The Convener: So we agree to continue the petition. Thank you.

Schools Consultation (Scotland) Act 2010 (PE1382)

The Convener: PE1382 by Laurence Slavin seeks to review and strengthen the Schools Consultation (Scotland) Act 2010 and accompanying guidance. We have been joined by Jackie Baillie and Trish Godman and I ask them both to say a few words before we consider how to take the petition forward.

Jackie Baillie (Dumbarton) (Lab): I do not think that Trish Godman is here for this petition, convener.

The Convener: Sorry, Trish—you are here for the petition on deep vein thrombosis. You can join in, though, if you like.

Jackie Baillie: I think that she will be mightily relieved that she does not need to do so.

I am grateful to the committee for the opportunity to speak to this petition. I realise that you have already had a long meeting, so I will attempt the impossible and try to be brief. The petition has been submitted by a constituent of mine, Laurence Slavin, and the context is, of course, the proposal for school closures in Argyll and Bute. I know that the committee is not able to interfere in the actions of a particular local authority, but the case serves as a useful illustration of the need to strengthen the 2010 act.

At the heart of the petition is the need to provide local people with safeguards to make the process open and transparent and—surprisingly—to ensure that the legislation, which already places statutory requirements on local authorities, is followed. Let me give you a flavour of the concerns that have been raised, so that you understand why the petitioner is asking for these changes in principle.

For a start, the population projections for the pupil community looked ahead only one year, which does not strike me as showing much foresight, and covered all children from four to 18, even though the closure proposals affected only primary schools. Why teenage pupils were included in the calculations was beyond us. Moreover, despite our having told them several times, in the press and elsewhere, the council missed the huge population increase that will happen at Her Majesty's naval base Clyde at Faslane. Although we know that at least 1,000 new employees, many with families with school-age children, are about to move into the area, it has chosen to ignore that.

16:30

In the capacity calculations, school corridors are included as teaching space. As the convener was formerly a teacher she will appreciate the

challenge of teaching in a corridor and will know that they should not be included in capacity calculations. Travel routes were not timed and specified. The fourth error, absurd though it may seem, is that it will cost the council more to close one school than it would to keep it open. Finally, the two most significant errors are that the council completely failed to deal with the requirements of the Schools (Consultation) (Scotland) Act 2010, because there was no community impact assessment and there was no consideration of alternative options.

The petition sensibly asks for an independent verification process so that councils should not be able to submit flawed proposals based on assertions rather than fact, for a strengthened right of appeal and for a legislative requirement to provide information, because, although Argyll and Bute Council has withdrawn its proposals, it will come back with more and it has refused all freedom of information requests, which means that the community is blindfolded and unable to challenge the proposals with detailed information. I do not want to put words in the Cabinet Secretary for Education and Lifelong Learning's mouth, but it would appear from a debate held a few weeks ago that he might be willing to consider some of the suggestions in the petition.

Whatever the case may be, I am clear, given the experience in Argyll and Bute, that across Scotland we need a clear, robust framework with clear standards that local authorities require to meet for the provision of information if they are going legitimately to consider school closure proposals. I am grateful for the committee's consideration.

The Convener: Thank you. If no one has any questions, what do members propose that we do?

Nigel Don: I do not know a great deal about this matter because, first, Argyll and Bute is some distance from my normal haunts and, secondly, although the legislation is very recent, it did not specifically cross my desk. Nevertheless, there is a general principle in the petition that, if you are required to consult, you are required to consult the right people at the right time and you must give people the right information. If you fail to do that, I do not think that any member of this Parliament would defend you. It is one of those petitions where there is not really anything to argue about. It would be interesting to know how we managed to pass legislation that did not have those checks and balances in it, but that is a question for other people, who are nearer the scene of the crime.

We must take the matter back to the Government and possibly to one or two local councils. I do not know what kind of answer we will get from local councils, but perhaps we should try to ask the relevant local councils, which would no

doubt include Argyll and Bute Council, what they think of the petition. We also need the Government's response.

The Convener: The suggestion seems to be that we continue the petition.

Bill Butler: I agree with Nigel Don; he is right. I also agree with Jackie Baillie.

The committee must ensure as best it can that it presses for consultation to refer to all relevant matters and not to seek irrelevant information. Local authorities obviously need to follow what the statute sets out. We should ask the Government about the five separate points laid out by the petitioner in the petition—I think that the legislative requirement is covered in section 3 of the petition.

We could perhaps extend our inquiries beyond Argyll and Bute Council and also write to the Western Isles Council and to East Ayrshire Council to get a flavour across the country of the impact that the act is having. As my colleague Nigel Don said, it is recent legislation.

John Wilson: I was going to suggest that we contact other education authorities. The three authorities that my colleague Bill Butler mentioned: Western Isles Council, Argyll and Bute Council and East Ayrshire Council, are relatively small local authorities. Another authority that I would like us to contact is North Lanarkshire Council, because it had issues with school closures in its area before the 2010 act came into place and it has identified further school closures. It would be interesting to get a response from North Lanarkshire Council, given the public criticism that it has received regarding school closures.

I also suggest that we write to the Scottish Parent Teacher Council, because it is important that bodies that are supposed to represent the interests of parents and pupils say how they expect the legislation to work in relation to guidance from local authorities on school closures.

More important, we should consult the EIS—I have proposed that before in relation to a petition. The EIS has challenged some figures that local authorities have produced on school closures. It would be useful to have a response from the EIS on how its members are dealing with the issues. As for classroom sizes and the use of corridors, to which Jackie Baillie referred, it is more appropriate for the EIS to respond on teaching practice in amalgamated schools or in schools in the future. That should be reflected in our consultation.

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

Members indicated agreement.

The Convener: I thank Jackie Baillie for her attendance.

Wild Land (Protection) (PE1383)

The Convener: PE1383, by Helen McDade on the John Muir Trust's behalf, seeks better protection for wild land. What are members' views on how to proceed?

Robin Harper: I am a member of the John Muir Trust, so I should not contribute.

The Convener: You are free to contribute if you wish, as long as you have declared your interest.

Nanette Milne: The petition is important, because our wild heritage is important to everyone in the country and it appears to be diminishing. We should contact the Government for its views on the petition.

The petitioner has expressed concern that Scottish Natural Heritage's natural heritage indicators show that

"the extent of Scotland unaffected by any form of visual influence"

from the built environment or land use change

"declined from 41% in 2002 to"

only

"31% by 2008".

That is a significant change in that time. The Government should be asked for its comments on that point.

I would also like to know the Government's views on the conclusions and recommendations of the report that it commissioned from the wildland research institute.

John Wilson: I declare an interest, as in my entry in the register of interests, as a member of the Scottish Wildlife Trust, the National Trust for Scotland and the RSPB. It is important and would be useful to write to obtain the views of several voluntary and statutory bodies on the petition—particularly Scottish Natural Heritage, the Scottish Wildlife Trust, the National Trust for Scotland, the Scottish Rural Property and Business Association, Scottish Enterprise, Highlands and Islands Enterprise, VisitScotland and the RSPB, which many people forget or do not realise is a large landowner in Scotland.

Robin Harper: I am happy to say that I support the suggestions that have been made.

The Convener: Do we agree to continue the petition and take the suggested actions?

Members indicated agreement.

Speech and Language Therapy (PE1384)

The Convener: PE1384, by Kim Hartley on behalf of the Royal College of Speech and Language Therapists, is entitled, "Giving Voice—speech and language therapy transforms lives". I ask for members' views on how to progress the petition.

Nanette Milne: This is another important petition, because communication is vital to everyone. Many people are deprived of communication in various guises and not everything is necessarily being done to help them. We should contact the Government to find out whether its policies and guidelines ensure that local authorities and health boards protect the provision of quality speech and language therapy services for everyone who has communication support needs and swallowing difficulties, which are another major issue. Does the Government have evidence that councils and health boards are doing what they can for such people? I do not think that they are doing that; we should find out about that.

John Wilson: Convener, I have some knowledge of the work that speech and language therapists do. When she was at primary school, my daughter benefited greatly from the intervention of speech and language therapy classes. The petitioners rightly identify the failure of co-ordination between the education services and the speech and language therapy services in the area that I lived in at the time. It would be worth writing to a selection of local authorities, including Edinburgh, Fife and probably Glasgow, and a selection of national health service boards. If we could, we should tie the NHS boards in to the local authorities that we write to so that we can get some idea of what is happening and whether there is co-ordination between the local authority education departments and the health boards on delivery of those services.

Bill Butler: I agree with that entirely. We should also write to the Royal National Institute for Deaf People Scotland and the National Autistic Society Scotland in those terms.

Robin Harper: It is appropriate to pay tribute to the work that Kim Hartley has done on behalf of the Royal College of Speech and Language Therapists during the three sessions of the Parliament from 1999 to date.

Cathie Craigie: Bill Butler made the point that I was going to make. I fully support the suggestions that have been made so far. I have a particular interest in those individuals who have hearing difficulties and the support that speech and language therapists can give them.

It makes a huge difference. Most people do not realise that speech and language therapists are involved with people who have a swallowing problem. They think that speech and language therapists only help people who have a problem with speech. The briefing paper that accompanies the petition is excellent and it shows that if we invest at an early stage in speech and language support, public money—taxpayers' money—can be saved as we go further down the road. Early intervention with young people can have life-changing outcomes. Any reduction in speech and language work in local authorities and health boards can set young people back for the rest of their lives and reduce their life chances.

I fully support what we are doing and I hope that we get some word back before the end of the parliamentary session. If not, we can leave this petition, which is on an important issue, for the next committee to complete.

The Convener: So, we agree that we should continue the petition and make contact as suggested.

Members indicated agreement.

Asthma (Children) (PE1385)

The Convener: PE1385, by Shona Haslam, on behalf of Asthma UK Scotland youth ambassadors, seeks to improve the lives of children across Scotland who have asthma. Does the committee have any suggestions?

Nanette Milne: I declare an interest in the petition because I am convener of the cross-party group on asthma. The petition was given to me at the end of the previous cross-party group meeting by the Asthma UK Scotland youth ambassadors. At that meeting, they made an excellent presentation about the difficulties that they face—not being allowed to do exercise when they are perfectly capable of doing it, being stigmatised, and not being allowed to use their inhalers when they need to. There are all sorts of problems that would not take an awful lot of sorting out and which would not cost a lot of money to sort out if teachers and other people in schools were properly trained in how to deal with some of the day-to-day issues. We should go on with the petition.

I had hoped that the young people might have been able to present their case today, but there are obvious reasons why we are not taking any evidence today.

I would like to take the petition forward and ask the Government to consider the points that it makes, particularly the call to ensure that teachers and other school staff are properly trained in what to look for in asthmatic children. School nurses are

well placed to do some of that work, but we probably need more school nurses who deal with asthma. I would like to know the Government's general response to the petition.

16:45

Robin Harper: School nurses occupy a special place in schools and I know of many who do wonderful work. However, it might be worth drawing the Government's attention to the fact that there are no mandatory qualifications to practise as a school nurse. I am sure that school nurses are all qualified in one way or another, but the fact that we do not have a mandatory minimum set of qualifications for the role comes as a complete surprise to me.

John Farquhar Munro: Convener, will you clarify who we are going to write to regarding the petition?

The Convener: It has been suggested that we write to the Scottish Government. Do you have further suggestions?

John Farquhar Munro: Yes, what about NHS Education Scotland?

Nanette Milne: We should also write to the Royal College of Nursing, given that we are talking about nurses.

The Convener: If there are no other suggestions, do we agree to continue with the petition and write in the terms outlined?

Members indicated agreement.

Inshore Fisheries (Management) (PE1386)

The Convener: PE1386, by Richard Munday, on behalf of the Torridon nephrops management group, seeks the establishment of further static gear only inshore fisheries.

Rhoda Grant is here to discuss the petition. I invite her to say a few words on it.

Rhoda Grant (Highlands and Islands) (Lab): Thank you. I will try not to take too much of your time, because you have had a long meeting and still have a way to go. The petitioners are in the public gallery and have a long journey home, so I will try not to detain anyone.

In 2001, Loch Torridon and the Sound of Raasay were closed to trawling. The local static gear fishermen then introduced a voluntary code of management in the area, which enabled the local community to benefit from the added value of creel-caught nephrops. As the petitioners point out in the petition, the catch has a much greater value because that form of fishing is environmentally sustainable—it has little or no impact on the sea bed and there is a low bycatch.

The petitioners are keen that other communities should get control of their local fisheries in the same way. That would give them control of their resources and much greater access to the economic benefit that that approach brings. The petition ticks an awful lot of boxes in relation to the sustainability not only of fisheries but of fragile rural communities.

When the community in Torridon gained the closure of the area, it went on to gain Marine Stewardship Council certification for the fishery. It was the first fishery in Scotland to do that. However, the successful management of the fishery was soon apparent to others, and new entrants came into the area. Unfortunately, because the code of management was voluntary, not all signed up to it.

It then became very apparent that steps had to be taken to control the overall effort of the fishery in the area. The management group tried to persuade the Scottish Government to put in place controls. The Marine Stewardship Council also flagged up the issue to the group and said that the fishery's certification may be in jeopardy because of it. The group went back to the Government—indeed, I wrote to the Government on its behalf—again with no success. Unfortunately, the certification has now been suspended because the Government has not put the necessary controls in place.

The petitioners are looking for two things. First, they seek support for the creation of further static gear only areas, which would allow other communities to benefit in the way that the petitioners have benefited. Secondly, and as part of that, they want to ensure that there is tight regulation and not only a code of conduct to which everyone who takes part must sign up but control of the total effort in the fishery.

Obviously, the petitioners need urgent intervention on their own behalf to try to safeguard their fishery's certification, but it is clear to me from the areas that I cover that static gear fishing would bring huge economic benefit to fragile remote communities.

The Convener: Thanks very much.

John Farquhar Munro: I am well aware of the case that Rhoda Grant has raised. The restrictions that have been in place to preserve fishing stocks in that fishery have produced great benefits for the local community. I know that and have seen the results, so I think that it would be a retrograde step if we were to let the benefits that have been accrued over the years disappear overnight.

Rhoda Grant makes a very good point. Over the years, the area has produced a sustainable fishery, which has attracted the eyes of other fishermen who do not have the same moral

standards as the people in Torridon. We are at a critical stage because if the licence is lost, how on earth can we get it reinstated? I think that we should make contact with the Government as soon as we can to ensure that the licence is maintained on Loch Torridon and the inner sound, at least. Whether we can encourage the Government to extend static gear only fisheries to other areas is an argument for another day but, at this stage, we should at least preserve what we have. We should send an immediate letter to the Government to enforce that argument.

Robin Harper: I indicate my enthusiastic support for the petition. Static gear only fisheries can have huge benefits for local communities and, even more important, for biodiversity, which the extension of such areas will increase. In the long term, they will result in a knock-on increase in the number of fish that are available to be caught by boats and trawlers that use mobile gear. The Government must be urged to act as quickly as possible and to review and pilot the establishment of further spatially separated static gear only inshore fisheries to improve fisheries management. That is part of a general policy of conservation, to which the Government has committed itself, so we should be pushing at an open door. We should also ask the Government to give a more general response to the petition and to deal with the three points in section 5 of our briefing.

Nanette Milne: Could we write to the Scottish Fishermen's Federation as well?

The Convener: It would be useful to ask the Scottish Fishermen's Federation for its view, too.

Rhoda Grant: May I suggest some people who might offer a view on the petition, in addition to the Scottish Government? SNH has been involved in the fishery, as has the Marine Stewardship Council. I know that WWF is supportive of it and that Marine Scotland has worked on it. There are academics to whom the committee could write, one on the fishing side and one on the socioeconomic side. Jim Atkinson at the Millport research station is an expert on prawn fisheries and Dr Andrea Nightingale at the University of Edinburgh has carried out work on the socioeconomic argument. It would be useful for the committee to have such information in front of it when it looks at the petition again.

The Convener: Thanks for that helpful suggestion.

It is agreed that we will continue the petition and that we will write to the people who have been suggested in the terms agreed. Thank you very much for attending, Rhoda.

Battle of Prestonpans (Education Centre) (PE1387)

The Convener: The second-last new petition is PE1387 by Herbert Coutts, Gareth Jones, Arran Johnston and Kristine Cunningham on behalf of the Battle of Prestonpans Heritage Trust. The petition seeks support for the interpretation of the Battle of Prestonpans. Do members have views on how to deal with it?

Bill Butler: I think that we should continue it and that we should write to the Scottish Government. We must await the outcome of the consultation that the Government is undertaking, through Historic Scotland, on the creation of an inventory of nationally important battlefields in Scotland. Once the outcome of that is known, we can ask the Government whether it will provide financial support for the creation of a permanent interpretation and education centre close to the site of the battle of Prestonpans.

We should also ask VisitScotland and Historic Scotland whether they support the petition. I certainly think that taking it forward would be worth while.

The Convener: Do members agree to continue the petition?

Members indicated agreement.

Solicitors (Scotland) Act 1980 (Repeal) (PE1388)

The Convener: The final new petition today—indeed, the final new petition of this session—is PE1388, by William Burns, on behalf of the crusade for the protection of true democracy, seeking a repeal of the Solicitors (Scotland) Act 1980.

I seek members' views on how to take the petition forward.

Bill Butler: We should continue the petition and write to the Scottish Government, asking whether it will repeal the 1980 act, end self-regulation and remove the legal profession's independence. I realise that the proposals are radical, but they are worthy of a response at the very least. After all, the petitioner says that these measures will bring the profession on-side with true democracy, so we should ask the Government whether it will accede to the suggestions made in the petition and, if not, why not. To be fair, we should also ask the Law Society of Scotland and Consumer Focus Scotland for their response to the petition's fairly radical proposals.

John Wilson: As well as writing to Consumer Focus Scotland, we should also seek Citizens Advice Scotland's views.

The Convener: Do members agree to continue the petition?

Members indicated agreement.

Current Petitions

Deep Vein Thrombosis (PE1056)

16:56

The Convener: Item 3 is consideration of 10 current petitions. PE1056 by Gordon, Jane and Steven McPherson is on DVT. Trish Godman has been waiting very patiently—over to you, Trish.

Trish Godman (West Renfrewshire) (Lab): I am not going to say much but what fascinates me about the issue raised in the petition is that, despite the fact that medical people knew about the condition and how to treat it, they were not dealing with it. What happened to Katie McPherson is sad and unfortunate.

There have been a lot of moves since the committee first considered the petition, but I have to say that I am not 100 per cent satisfied with the results. Last year, for example, the RCN made it quite clear that the problem simply cannot be left to the medics and that there must be continuous assessment by nursing staff. I have discussed the issue with the minister, who said that although she had no objection to the formation of a group similar to the one that exists down south, comprising nurses, medics and a dedicated pharmacist, she had no plans to put it in place herself. Such an approach has been taken in Oxford, and the RCN did very well when it made that the main thrust of its work in this area.

Clinicians are now being asked to look at the Grampian risk assessment tool and at family history, which is an issue in which Jane, Gordon and Steven McPherson are very interested. It did not seem to be a well-known aspect; indeed, when the question arose whether anyone else in the family had the condition, the doctor did not know anything about it.

Although things have come on, I would have liked the matter to have been tidied up a bit more. The committee could, for example, flag it up in its legacy paper, because we have to examine the changes that have been made so far and the commitment made by clinicians to look at the matter carefully, carry out the assessment and bring people back after a certain number of days if they are not happy. We do not know what the result of all that is going to be; I do not know, for example, whether the procedure will need to be tightened up. I received an indication from the NHS in Dundee that, although it had set up a programme it did not have the appropriate codes—the NHS has a system of codes for different things. I have written to the minister about that, but I have not yet received a response and I do not know where things stand in that respect. As

a result, there are a few loose ends that I am not totally happy about.

What the committee will do is, of course, a matter for it, but, as I have said, DVT is not a mysterious illness that nobody knows how to fix or sort out. It is known how people get it. Families are now looked at, and who is more at risk should be known, but no group like the English group has been set up. Nurses clearly say to me that they will do the work, as clinicians will not bother with it, but I do not know what the result will be. I do not think that things are as tight as they are in England.

17:00

Nanette Milne: I absolutely agree with Trish Godman. I am well aware of the vast amount of work that Gordon McPherson and his family have done to get things as far along as they are. We should keep the petition open. If we put the issue in our legacy paper for the next committee, perhaps we could suggest that it be referred to the next health committee to consider the outcome of what has been suggested. We are talking about a significant health issue. Can we do that?

The Convener: I am sure that we can suggest that. Do members agree that we should keep the petition open, as there is more work to be done on it?

Members indicated agreement.

The Convener: I thank Trish Godman for attending.

School Bus Safety (PE1098 and PE1223)

The Convener: PE1098 and PE1223, on school bus safety, are from Lynn Merrifield and Ron Beaty. The Minister for Transport and Infrastructure provided us with an update earlier today. I seek members' views on how we should proceed.

Nanette Milne: It is clear that work is in progress, and it is important that we continue the petitions until the matter is driven forward. We should push to get a meeting and get responsibility for seat belt legislation devolved as far as we can.

The Convener: Are there any other views? There is frustration about getting a response from ministers down south. I sent a letter to Keith Brown on 16 December, but he has still failed to get a date with Mike Penning. There seems to be confusion about a letter not arriving with the minister.

The situation is frustrating. We are keen to take the issue further forward. I think that members take the view that there is scope for substantial

progress to be made, but that is taking rather a long time.

Nigel Don: We have got our teeth into the issue, and we will keep our teeth in it as long as I have anything to do with it.

The Convener: We might get quite long in the tooth at this rate.

Nigel Don: The committee has had some successes, and I hope that we will eventually put this issue on the list of successes. The frustrations between the Governments aside, is there any other outstanding issue that we should nudge forward? Is there any outstanding issue with any of the local authorities with which we have dealt—Aberdeenshire Council is one of the foremost of those—or are we really waiting for the Governments to put their heads together to work out how to delegate regulations?

The Convener: One of the big issues is whether legislation should be changed to allow Scotland to legislate on school bus safety. We are waiting for that key issue to be addressed.

Nanette Milne: I notice that Keith Brown says in his letter that Aberdeenshire Council has just this week provided a report on the results of its school bus signage trial. Officials are now discussing that.

The Convener: We should ask for an update from Aberdeenshire and express frustration about the slow progress that is being made. The petition is a long-standing one that people feel strongly about, and the slow rate of progress is becoming very frustrating.

Fergus Cochrane (Clerk): The minister's letter also refers to the guide to improving school transport safety. The minister has pointed out that a short survey is being commissioned for next month to gather initial reactions on the effectiveness of the guide and states that the survey results will be published on the Transport Scotland website. That is another aspect that is fairly immediate.

John Wilson: Given the enthusiastic responses that we received at the October meeting when we had everybody round the table, it is disappointing that no progress has been made on the legislative framework. The transport ministers in Scotland and in the UK Government indicated that that might be problematic, but they gave a clear assurance at that meeting that they would try to resolve the issues quickly so that the Scottish Government could get legislative competence to act, as has happened in Wales, to resolve some of the issues that have been identified through the petitions. If we are writing to the UK and Scottish ministers, we should express our frustration that they have not responded as eagerly as they

indicated that they would at the meeting in October.

The Convener: Absolutely. Are we agreed that we will continue with the petitions in the hope that we can get a resolution or some success before the Parliament rises?

Members indicated agreement.

Befriending Services (PE1167)

The Convener: PE1167, by Christine McNally on behalf of Clydesdale Befriending Group and other supporting organisations, is on the issue of befriending services. Do members have a view on how we should deal with the petition?

John Farquhar Munro: I see that the recommendation is to close.

The Convener: It is up to the committee to decide what it feels is most appropriate.

Bill Butler: I do not know whether there is anything further that the committee can do—that is the problem. The Scottish Government has confirmed that local authorities can, if they so wish, fund befriending services for adults with learning disabilities, despite such services not being part of its “The same as you?” strategy. The Government is reviewing that strategy to evaluate what impact the policy has had on the lives of people with a learning disability and their families, and to identify what future work needs to be done. That is the Government's response. With the best will in the world, there is nothing further that we can do, other than monitor the progress that will, I hope, be made through the work that the Government has set in train. With regret, we have to close the petition, because there is no further locus for the committee.

Cathie Craigie: I support Bill Butler's suggestion that we close the petition, as we have taken it as far as we can. The befriending services in Clydesdale, where the petitioners are from, like those in my constituency of Cumbernauld and Kilsyth, do an absolutely first-class job, not just for people with learning difficulties, but for elderly people and people with disabilities who otherwise would be sitting in their house without a friend to pop in or to accompany them out. Organisations such as the Clydesdale Befriending Group have got across their argument about how much benefit they can bring to a community. I just hope that local authorities the length and breadth of Scotland and the Government recognise that and will fund them accordingly so that they can continue their good work.

John Wilson: I support Cathie Craigie's points. Several voluntary organisations throughout Scotland provide befriending services. Clydesdale Befriending Group has highlighted the issues.

Although we are closing the petition, I express reservations about the delay in the publication of the responses to the consultation on the Government's "The same as you?" strategy. We have been told that they should be pulled together in the summer of 2011. I suggest that when closing the petition we write to the petitioner to say that they should keep a watching brief on the report that is produced at that time. If there are any issues of concern, they can submit another petition highlighting those concerns to the committee at a later date.

The Convener: Does the committee agree to close the petition on those terms?

Members *indicated agreement.*

General Practitioner Dispensing Practices (PE1220)

The Convener: PE1220, from Alan Kennedy, is on general practitioner dispensing practices. Do members have a view on how we should deal with the petition?

Bill Butler: There is not much more that the committee can do to take forward the petition. We have received information that the Government has laid the National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 today. It is hoped that guidance to NHS boards on how to ensure that local authorities fully understand and are encouraged to participate in the application process will follow, once the regulations come into force in the spring. The committee has done all that it can at the moment. Hopefully, the regulations that have been laid today will be of advantage and will address the petitioner's concerns.

The Convener: It may be useful for the Government to seek the petitioner's views when it conducts its review. We agree to close the petition.

Same-sex Marriage (PE1239)

The Convener: PE1239, from Nick Henderson, on behalf of LGBT Network, is on the right to same-sex marriage. I seek members' views on how we should deal with the petition.

Bill Butler: I preface my remarks by saying that I am fully supportive of the legislation on civil partnerships that was passed in 2006. Personally, I am not absolutely convinced of what the petitioner proposes—the right to same-sex marriage—but I am open to persuasion. However, that is just a personal opinion. I'm no agin, and I'm no absolutely for—I am persuadable.

We must be frank with the petitioner that there is nowhere else that the committee can go with the petition. That does not mean that the issue will not

appear before Parliament again. Inevitably, it will, because there is a body of opinion that supports the right to same-sex marriage. However, we are faced by the fact that the Scottish Government has repeated on no fewer than six successive occasions that it has no plans to change the law in the area and that the issue is not a priority. The Government has responded to many specific points that were made by the committee by saying that it does not consider it necessary to conduct research to ascertain how the constitutional difficulties that are attached to same-sex marriage can be resolved. At the moment, I do not see what else the committee can do. On that basis alone—the practicability of the Public Petitions Committee taking the petition forward—I suggest that we are forced to close it.

The Convener: Is that the committee's view?

Members *indicated agreement.*

The Convener: The petition will be closed.

Disclosure Scotland (PE1289)

The Convener: PE1289, from Dr David McNally, is on the simplification of Disclosure Scotland procedures. I seek members' views on how we should deal with the petition.

John Farquhar Munro: The recommendation is that we should close it.

The Convener: For what reason?

John Farquhar Munro: We have taken the petition as far as we can. I see no benefit in holding on to it any longer.

Nanette Milne: We have been able to deal with some of the issues in the petition. There is a scheme that removes the need for people to complete multiple disclosure applications. That certainly deals with the issue of teachers working for more than one local authority having to get multiple disclosure certificates.

17:15

The Convener: I understand that the petitioner has been contacted but has not expressed a view. In line with paragraph 161 of the public petitions process, we can assume that the petitioner does not wish to pursue the petition any further. If the committee agrees, we will close the petition.

Mobile Phone Coverage (Rural Areas) (PE1359)

The Convener: PE1359, by Daphne Jackson on behalf of Ettrick and Yarrow Community Council, seeks improved mobile phone coverage in rural areas. I seek members' views on how we should deal with the petition.

Bill Butler: Again, convener, I do not think that we can do anything further. It is coming to that time in the diet when our ways of making progress are blocked off because, for example,

"The Scottish Government has been actively making and continues to make regular representations to all the UK mobile telecoms operators, with a view to improving mobile phone coverage throughout rural Scotland and the country as a whole."

The Government has also promised that it is working on an integrated mobile broadband solution. There is nothing else specific that we can press the Government on. We just have to wait and see whether the promises can be fulfilled. However, the specific terms of the petition mean that the committee can do nothing else to progress it at this stage. I suggest that we close the petition.

The Convener: Is that the committee's view?

Members *indicated agreement.*

Gypsy Traveller Community (Government Apology) (PE1363)

The Convener: PE1363, by Ken MacLennan, seeks an apology from the Scottish Government to the Scottish Gypsy Traveller community. How should we deal with the petition?

Robin Harper: The fact is that the Scottish Government cannot apologise on behalf of other Governments and public bodies. That is just the way things work. However, it recognises that Gypsy Travellers are among the most disfranchised and discriminated against people in Scotland. We have been well aware of that during the past 12 years since the Parliament was set up, and we have had meetings with Gypsy Travellers and listened to their concerns. That specifically answers the petition in that respect. The Scottish Government, in recognition that Gypsy Travellers are a distinct ethnic group that has suffered particular discrimination, is working to address the priorities that have been fed into the race equality statement as a result of the Equal Opportunities Committee's second inquiry.

We have no option but to close the petition. The Government is doing what it can, but the one thing that it cannot do is apologise on behalf of other Governments and public bodies.

The Convener: Is that agreed?

Members *indicated agreement.*

Justice for Megrahi (PE1370)

The Convener: The next petition is by Dr Jim Swire, Professor Robert Black QC, Mr Robert Forrester, Father Patrick Keegans and Mr Iain McKie, on behalf of Justice for Megrahi. Christine Grahame is here. Christine, would you like to

address the committee and then we can go to questions?

Christine Grahame (South of Scotland) (SNP): Thank you, convener. I commend the members of the committee for their stamina in these late sittings. I do not know if I have it.

I refer to point 2 of the Scottish Government's letter of 7 January, which states:

"A second appeal, following a referral from the Scottish Criminal Cases Review Commission, was abandoned by Mr Al-Megrahi. The conduct of his defence during his trial and the appeals, including his decision not to give evidence at trial and the decision to abandon the second appeal, was entirely a matter for Mr Al-Megrahi and his legal advisors."

The letter goes on to say that the petitioners invite the Government to do something that falls properly within the criminal justice system and that there are routes available within that system, so that should be an end of the matter.

If I may say so—and I am quite ready to challenge my own Government—those are not the facts. First, we know why Mr Megrahi abandoned his appeal, because Maggie Scott QC told the court why he did so. I will paraphrase, but she said words to the effect that her client, Mr Megrahi, believed that doing so would assist with his applications—plural—meaning his applications for prisoner transfer and for compassionate release. Prisoner transfer, of course, required abandonment of appeal and compassionate release did not. We can struggle over why he abandoned it and who said what to whom, but that is a fact and what he believed, so these are extraordinary circumstances.

We must then challenge whether there is a route open to Mr Megrahi within the criminal justice system other than a public inquiry. If members will bear with me, I will refer, I hope in a rather lawyerly way, to the legislation that was brought in recently to deal with people who were not being represented when they were charged. I will get the name of it in a moment—bear with me. I will just make my submission, then I will tell you the name of the act. Here we are. It is the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010. If members recall, we dealt with the legislation all in one day, from stage 1 through to stage 3. There is a section in it that I tried to have deleted because it did something radical to the Scottish Criminal Cases Review Commission, which you will know is an independent body that was set up in 1999 to deal with miscarriages of justice independently of the courts and independently of us, thankfully. Section 7(3)(2) of the act does something strange in relation to the Scottish Criminal Cases Review Commission. It states:

"In determining whether or not it is in the interests of justice that a reference should be made, the Commission

must have regard to the need for finality and certainty in the determination of criminal proceedings.”

For the Scottish Criminal Cases Review Commission, which is an independent body, to say that there might have been a miscarriage of justice is no longer good enough. It has to say, “We think there might have been a miscarriage of justice, but nevertheless, because of the need for finality and certainty, we are not going to refer it to the High Court.”

However, say a case did pass the test and the commission referred it to the High Court. Previously, the High Court had to accept a referral with no ifs and no buts, but that also changed under the emergency legislation. The act states:

“In determining whether or not it is in the interests of justice that any appeal arising from the reference should proceed, the High Court must have regard to the need for finality and certainty in the determination of criminal proceedings.”

So we have the first hurdle, and if the SCCRC says that the case passes the test of finality and certainty and passes it to the High Court, it sets the test again—the very High Court that heard the case in the first place. To me, that is not a just system.

Going to the Scottish Criminal Cases Review Commission is no shoe-in. Many people apply but few get to the stage of a referral. However, referrals can be very successful. If we look at the commission’s success rate, we see that it made four referrals on sentencing in 2010, two of which were successful and two of which are still being determined. For sentencing alone—obviously, if someone’s conviction has gone, they have no sentence—there were four referrals, two of which were successful, one of which failed and one of which is still being determined. The commission does not make referrals willy-nilly, and they are quite successful.

My concern is that that route will no longer be open, not just to Megrahi but to others. My understanding is that, in certain circumstances, the SCCRC can make a referral even though an appeal has been abandoned.

The circumstances of the case are very strange and there are so many unanswered questions, whether for people who believe he is guilty, people who believe he is innocent or the victims’ families. No line has been drawn in the sand on the matter.

The route that I mentioned has now been blocked. To give the cabinet secretary his due, he said when I raised the matter that he would review it. A panel of judges is reviewing the legislation and he will review how it operates.

I have taken the time to say that because, first of all, the Government is saying that Megrahi closed the appeal himself—well, we know why.

Secondly, the Government is saying that the criminal justice system has a route, but I think that the SCCRC has been neutered in many respects.

I wish the committee to continue to pursue the inquiry route, and not to close the petition. Convener, I suggest that you confirm with the SCCRC whether it can re-open an abandoned appeal on its own and I would also like to know the SCCRC’s views on that limiting of its powers—if any—and when the review panel will report on the functioning of the legislation.

The committee may feel that that is not pertinent to the petition, but I feel that it really is. If members do not know about that bit, they do not know why people are pressing so hard for a public inquiry; it is because they have concerns that everything else is being shut down.

The statement of reasons has not been published, because the subordinate legislation says that if any third party has given evidence—even indirectly—and they do not want it published, it will not be published, so we will pretty well not get anything. This is the final court.

On the mace, it says that we will have justice, integrity and compassion. No wonder the petitioners call themselves Justice for Megrahi—frankly, at the moment, there has not been justice for anybody in this particular case.

The Convener: Okay, thank you.

Bill Butler: I suggest to colleagues that we continue, and I will delimit the way in which we do so. I was going to say that this committee had no further locus, because we have been told that the Scottish Government has again stated that it has no plans to initiate an inquiry on the issue and has clarified why it does not consider an inquiry to be necessary. Christine Grahame referred to that statement in the letter from the Scottish Government that we received.

We have to realise that this is simply a public petitions committee, and we certainly cannot make a judgment in a formal way. However, it would be at least worth while—I am not sure how colleagues feel about this—if we did two things.

First, we could, as Christine Grahame suggests, write to the cabinet secretary to ask whether he will review the application of the emergency legislation as he has promised. If that is his intention—which I do not doubt, because he told Christine Grahame, a member of the Parliament, that that was his intention—when will his review take place, and when and how will his decision in that respect be made known? Secondly, on another point that Christine Grahame raised, can the SCCRC open an abandoned appeal?

Those are the two questions. On the first, we hope that we know the answer, or part of it. On the

second, we really do not. We can continue on those two specific points.

I must say this, however. Once we ask those questions, unless someone is ingenious enough to come up with other ways in which we could legitimately continue the matter as a public petitions committee—because the arguments and the controversy will continue—we will have to close the petition. However, I suggest to colleagues that it is worth while for us to continue by asking the fairly narrow questions that Christine Grahame has suggested we ask.

17:30

Cathie Craigie: I support what Bill Butler has said, particularly in his final summary. We must go back and ask for a further couple of points to be clarified. If we do not get anywhere, it is difficult to see where the committee can go.

Point 3 of the Government's letter refers to the Inquiries Act 2005. The Government's reason for saying that it cannot conduct a public inquiry is weak—I will not use the same words as the petitioners used in their submission. The Government is hiding behind an excuse. Every time the Government touches the Megrahi case, it seems to do something wrong and to move the goalposts.

I support my colleague Bill Butler's suggestions. We should see whether we can get responses before the next session.

I note the length of time that the Government took to respond to our previous letter on a Megrahi inquiry. I know that the convener has written to the First Minister about that. I am sure that a whole load of civil servants are familiar with every detail of the Megrahi case and could put their hands quickly to writing the response that we will request.

I do not know whether the clerk or the convener will write the further letter to the Government, but I suggest that we ask for a quick response, because we want to deal with the petition in this session.

Nigel Don: Once we have a response from the Government, there is little prospect that another response will be different, but banging on the door will do no harm. It occurs to me that—as far as I can recall—we have not yet written to the Lord Advocate. As the senior independent law officer, does she have from somewhere in the mists of time residual powers to investigate this, that and the other? That might be clutching at straws, but it is one sack of straws that we need to consider. Do the law officers have a residual power to investigate or reconsider a case in such circumstances? I would not even define the circumstances; we should just ask the Lord

Advocate to think about what she might be able to do.

Robin Harper: Considering that the petition is extremely limited—it asks us

“to urge the Scottish Government to open an independent inquiry”—

and that we have been told at least twice that the Government has no intention of so doing, we have every right to close the petition. However, I have listened to Christine Grahame's arguments and I feel that, for the petitioners' sake, it is worth writing to ask the SCCRC for its opinion, which can be forwarded to the Government for a response. As it is seven weeks to dissolution, that process is extremely unlikely to be completed before dissolution, so we must think of the matter as part of our legacy to the next session's Public Petitions Committee.

The Convener: Do we agree to continue the petition in those terms?

Members indicated agreement.

The Convener: I thank Christine Grahame for her attendance.

Christine Grahame: I was going to say thank you and goodnight.

The Convener: Not yet.

Robin Harper: Not for us.

Bill Butler: For Christine Grahame, maybe.

Christine Grahame: I know.

Football (Corporate Governance) (PE1371)

The Convener: PE1371, by Iain Jack, is on corporate governance in Scottish football. How should we deal with the petition?

Cathie Craigie: The evidence session on the petition was good and informative. It helped to bring out issues that people who are involved in sport face every day, particularly in the move to elite sport. That applies not just to football. A number of points were raised that we could follow up, particularly the points that were made by—I cannot remember their names.

Am I on the wrong petition?

Bill Butler: Yes.

The Convener: This is PE1371, on Scottish football corporate governance.

Cathie Craigie: Oh, sorry.

The Convener: No problem.

Bill Butler: We can do nothing further, because the second report by Henry McLeish on the structure, leadership and governance of football

has been delivered to the Scottish Football Association and it is now up to football's governing body, in conjunction and co-operation with sportscotland, to determine what it can do with the recommendations. That is the proper way to proceed and we have no further locus in the matter.

The Convener: Is that the committee's view?

Members *indicated agreement.*

New Teachers (Jobs) (PE1374)

The Convener: The last petition today is PE1374, by Ronnie Smith, on behalf of the Educational Institute of Scotland, on jobs for teachers.

Robin Harper: I should declare an interest as a member of the EIS, but I do not think that it will be happy with what I am about to say.

The Government's response clearly says that it has given sufficient resources to the Convention of Scottish Local Authorities through the budget agreement with a commitment to ensure maximum employment opportunities for teachers. In other words, the Government will not guarantee that teachers who successfully complete their induction year will get a job. That is the bottom line. Teacher employment issues have been brought to the Parliament and the Education, Lifelong Learning and Culture Committee on a number of occasions. There was recently a further oral evidence-taking session with the Cabinet Secretary for Education and Lifelong Learning, so the Government is well informed of the position at the moment. The matter will be taken forward during the budget debate and wider parliamentary scrutiny of the budget.

There is not much more that we can do in the limited time that we have.

The Convener: The proposal is to close the petition.

Bill Butler: My entry in the register of members' interests indicates that I am a member of the EIS.

I do not disagree or, rather, I agree—no double negatives—with my colleague Robin Harper. The committee has taken the petition as far as it can. The matter will be the subject of intense debate not only in the budget process that is about to unfold but in the election campaign that is coming up. It is a policy matter and, therefore, we cannot take it any further. I agree with Robin Harper that we should close the petition.

The Convener: Is that the committee's view?

Members *indicated agreement.*

The Convener: The petition will be closed. That concludes the meeting. I thank all the members of

the committee for their forbearance in tackling the range of petitions before us.

The next meeting will be on Tuesday 8 February at 2 pm. From now until our final committee meeting on 8 March, we will focus on current petitions only.

Meeting closed at 17:38.

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