



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 1 March 2011

Session 3

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CONTENTS

	Col.
CURRENT PETITIONS	3453
Institutional Child Abuse (Victims' Forum and Compensation) (PE1351)	3453
Low-dose Naltrexone (PE1296)	3465
Planning (Protection of National Scenic Areas) (PE1295)	3471
Public Bodies (Accountability) (PE1337)	3472
Gypsy/Traveller Encampments (Guidance) (PE1364)	3472
Access to Justice (Environment) (PE1372)	3480
Free Methanol (Ban) (PE1376)	3481
Incineration (Green Alternatives) (PE1379)	3482
Football Tickets (Prohibition of Resale) (PE1380)	3483

PUBLIC PETITIONS COMMITTEE

5th 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:

Christine Grahame (South of Scotland) (SNP)

Alex Johnstone (North East Scotland) (Con)

Des McNulty (Clydebank and Milngavie) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Anne Carpenter (Time to be Heard)

Dr Peter Craig (Scottish Government Directorate for Chief Medical Officer, Public Health and Sport)

Dr Alan McNair (Scottish Government Directorate for Chief Medical Officer, Public Health and Sport)

Professor Bill Scott (Chief Pharmaceutical Officer)

Tom Shaw (Time to be Heard)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 1 March 2011

[The Convener *opened the meeting at 14:02*]

Current Petitions

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

The Convener (Rhona Brankin): Good afternoon and welcome to the fifth meeting in 2011 of the Public Petitions Committee. We have received no apologies for today's meeting. As usual, I ask everyone to turn off all mobile phones and various electronic devices.

Under agenda item 1, we have 11 current petitions for consideration. We will take oral evidence on the first two petitions only: with the committee's agreement, I intend that we should spend approximately half an hour in dealing with them.

The first petition is PE1351, by Chris Daly and Helen Holland, on time for all to be heard. I welcome Tom Shaw, chair of the time to be heard forum, and Anne Carpenter, a commissioner from the forum. I also welcome Des McNulty to the committee for this petition.

Last week members received Mr Shaw's report, "Time to be Heard: A Pilot Forum Report". I ask Mr Shaw to begin by making some remarks to the committee.

Tom Shaw (Time to be Heard): Thank you. I want to reiterate briefly the purpose of the pilot forum—or, as it became known, time to be heard. It was set up to test the effectiveness of a confidential independent forum as a means of achieving two things: acknowledging for those who wanted to come forward the wrongs of the past that they had experienced, and providing them with an opportunity, if it worked for them, to gain some sense of progress towards closure—in a sense, some sort of therapeutic benefit—from it. Its subsidiary function was to provide information for those who needed and wanted it about what and how many other avenues they might be able to pursue other than being heard purely through the time to be heard forum.

It is fair to say that when the forum was first established, we faced three issues that caused some difficulty. One was the framework for human rights for former residents and survivors of abuse that the Scottish Government commissioned, which indicated that for a forum of our kind to be

effective, it had to be independent. Initially, we were to be part of the SurvivorScotland structure and supported from within that system. The forum then had to be developed as a separate free-standing entity. We took our own legal advice to ensure that we understood the implications of acting in that way, and we had our own staff, whom we appointed.

One of the difficulties that that threw up for us was the fact that we did not have legal protection for confidentiality. In order to protect the confidentiality of those who came to speak to us, we had to put in place arrangements to minimise the amount of identifiable information that we held, and anonymise any information that we held and ensure that we held it for as short a time as possible.

Another issue was the fact that our forum was an acknowledgement forum, not an acknowledgement and accountability forum. For some survivors, the lack of accountability was a significant issue: some saw it as the Government reneging on what had been consulted on prior to the establishment of the pilot forum.

The third issue was concern among some former residents that time to be heard was restricted to those who had been former residents of Quarriers. They particularly wanted it to be open to all. The rationale for that restriction was set out at two stakeholder events this time last year, and it is given in part in the report. The full rationale will be on the website of SurvivorScotland alongside the report.

Because the forum was a pilot, we wanted to test as many dimensions of the process as we could. There were advantages in having an institution that had a large number of former residents about whom there were records, that drew children from all over Scotland—they were not exclusively from one geographical area—and in which there had been convictions. Those are not the only reasons, but they are some of the reasons.

In due course, we heard from 98 people. One hundred and sixty-eight people asked for information and 116 made an application. I subsequently had to refuse two of them: one had not been a resident in Quarriers and the other had worked in Quarriers at some stage but had not been a resident. In the end, of the remaining 114 people, 98 were heard. A few changed their minds after having been offered a place and a few were ill and could not come. A few others read through carefully again what it was that they would be involved in and, perhaps in the light of that, decided not to go forward.

Of the 98 from whom we heard, we had people from a range of ages and backgrounds who were

living in a very wide distribution. About two thirds were still living in Scotland, around 20 per cent were living in England and Wales and the others were scattered in Australia, the USA, Canada, Italy, France and Germany. As members may know, the other commissioner, Kathleen Marshall, and I went to Canada and heard five people there, with a view to testing the effectiveness of that as a context.

Anne Carpenter will say something about the response of the participants and some other matters such as why they chose to be heard.

Anne Carpenter (Time to be Heard): As the committee knows, a piece of work was commissioned separately from our work to examine how survivors felt the experience had been for them. We have had some preliminary feedback that they found the forum very helpful. There was a level of seriousness in having the Government commission Tom Shaw, Kathleen Marshall and I to run the forum independently: it had a level of seniority that gave it some credibility for the survivors. The way in which the work was carried out—people assisted the participants, both before they came in to us and again afterwards, in a supportive and non-judgmental way—was useful for people.

We asked people why they had come forward. The overriding reasons were because they wanted to have their accounts heard with some level of respect and dignity and because they wanted lessons to be learned for future generations of children who are in care. Interestingly, only three out of the 98 participants asked for financial compensation. For the rest of them, the issue of accountability seemed to be about an acknowledgement of what had happened to them. We feel that the restorative justice aspect may offer some accountability—not necessarily financial, but some acknowledgement from representatives of the organisations that inflicted the lack of care that the care that was delivered was not adequate.

Tom Shaw: May I add something? We were also asked to try to distil from what we heard any messages or lessons relevant to the provision of residential care today. I can summarise what we heard by saying that three themes came through.

One theme was lack of communication with children and between adults. Another was the centrality of respect in the care of a child: children were not only disrespected and denigrated but differentially respected. Some were favoured and some were not, and those experiences bear heavily in the memories and pain that individuals spoke about. The third theme was preparation for leaving care. Many felt that they were ill prepared—some would say not prepared at all—

and that, as some put it, they were abandoned after they moved out of full-time residential care.

We appreciate that standards, provision and expectations have changed dramatically since then, but we believe that those issues remain significant in 2011. We urge those who make provision to keep focusing on them—judging, evaluating and, whenever they can, improving through training and practice what is being done in those areas today.

Bill Butler (Glasgow Anniesland) (Lab): Good afternoon, colleagues. I have a couple of questions. They arise from the written submission from Former Boys and Girls Abused of Quarriers Homes, which was submitted at the end of November last year. In the opinion of that group of survivors,

“TTBH does not have a sufficient mandate or remit to address the issues in line with the recommendations of the Scottish Human Rights Commission ... There are no effective remedies, redress, reparation, nor effective inquiries nor access to justice remedies in the TTBH process.”

What is your reaction to that?

Tom Shaw: Time to be heard tests one element of what would be part of the Scottish Human Rights Commission framework, which is that of a confidential hearing committee. Recognising that, the Scottish Human Rights Commission set out five key recommendations that we should adopt in piloting this aspect of what it saw as part of a future framework, and we sought to follow those recommendations. That is one thing, for example, that led to us being established as an independent forum. In my opinion, the element of our being a confidential, non-judgmental hearing committee is critical, and such a facility has to be available to those who want it.

If you wanted me to comment on a combination of acknowledgement and accountability in one, I would say that that is impossible if we want to have the beneficial outcomes of the confidential hearing committee. If we introduce an investigative or accountability dimension, we instantly introduce an adversarial element into the forum, which would prevent a number of the people from whom we heard from coming forward to be heard.

Those people do not want to be challenged and disbelieved again; it is sufficiently traumatic for them to come back, remember the experience and recount it to people such as us. It would change the whole dimension, operation and experience of that. That is not to say that there should not be such an opportunity; however, in my opinion, there is a need for a confidential forum that does not involve that. We provided people, if they wished, with guidance on what other action they could take. That was one way of helping them. However,

we do not see accountability forming a practical combination with acknowledgement.

14:15

Anne Carpenter: The need for acknowledgement was the overriding reason that our participants gave for coming along to see us. They wanted an opportunity to talk. Some people had not even told their closest family members what had happened to them. There is, rightly, a strong body of people who are involved in survivor groups, but we saw a substantial number of people who had not been members of such groups. Acknowledgement, rather than accountability, was what they were looking for.

Bill Butler: I have one more question. What is your reaction to the strong suggestion in the document to which I have referred that the way ahead on Quarriers homes is, in the view of FBGA, that the Scottish Human Rights Commission recommendations be

“fully implemented in line with the framework document”?

You say that the framework is separate from this issue, and you have talked about the need for an investigative opportunity. What is your response to that suggestion as a way of proceeding?

Tom Shaw: As I understand it, the framework largely advocates a series of opportunities akin to those that were available in the Republic of Ireland. As you may know, those operated and were available through an investigative committee and a redress board. I am hesitant about saying whether that is the right way forward in the context of needs here in Scotland, as my attention has been focused specifically on the acknowledgement dimension. Some people are certainly looking for more than the time to be heard forum was able to provide. It is reasonable that their expectations are addressed and a way forward found. Whether the framework is the only way of doing that remains to be seen. I understand that the Scottish Government is yet to respond to the framework. For all that I know, it may indicate other ways in which some of those expectations could be met.

This ties back into your other question. At an event for survivors and service providers that we had this morning—we will have two further events tomorrow in Glasgow and one on Thursday in Aberdeen—the facilitator was the person who worked with the investigative committee. She was adamant that the people who came to the acknowledgement or confidential committee would not have come to the other committee. In Ireland, they did not have the option to attend both—they could go to one or the other. It was the experience of the accountability or investigative committee that in the region of half the people dropped out

before the experience was carried right through. They found the process too difficult to take as they went through it. I am not saying that that is an argument for not proceeding with it, but it is an issue that would have to be addressed in whatever came forward in another development for the needs and rights of survivors.

Anne Carpenter: I endorse those comments.

Nigel Don (North East Scotland) (SNP): It occurs to me, as I am sure it has to others, that one way forward might be to put the acknowledgement phase ahead of any other phase—unless, of course, a survivor insists that they do not want to go through the acknowledgement phase and that they are concerned about other matters.

Tom Shaw: I would be very reluctant to take things consecutively. Whatever happens needs to happen concurrently. After all, we are dealing with a body of people, many of whom are in their 70s, 80s and 90s, who simply cannot wait any longer. Anything that is done has to be front loaded and priority given to those who are older and ill. We sought to do that in the time to be heard hearings, but it was quite difficult because the illness that led us to prioritise those people was the very thing that kept pushing back the hearings. However, any other avenues that might be proposed need to come on stream sooner rather than later. If I am allowed to say this, I think that if confidential hearings are to form part of all this they need to be undertaken very soon and supportive legislation needs to be in place to protect those who come forward in such hearings and those, like us, who carry them out. Nevertheless, I would be cautious about saying that we should do this first, that next and the other after that.

John Wilson (Central Scotland) (SNP): I thank Mr Shaw and Ms Carpenter for their attendance and welcome their report, which I think is a step in the right direction in trying to identify and acknowledge some of the issues that have arisen for children in care. Following Mr Shaw's opening comments and Nigel Don's previous question, I note that the report indicates that the forum had no statutory protections or powers in undertaking its work. Was that a failure on the part of Government? After all, it is clear from the report that the lack of such statutory protections might have led to restrictions or limitations on certain issues that arose, details of what was happening to individuals and the information that those individuals were able to impart.

Tom Shaw: In line with the guidance that was provided to us, which set out the five conditions from the Scottish Human Rights Commission report that we had to meet, we sought to put in place ways and means of facilitating those who wanted to report what had been done to them and

who had not previously done so. Forgive me if I am repeating myself but I point out that, despite the fact that they had already secured convictions, some people still came to be heard. Others who came to be heard—a very small number now—are in the course of taking action, and we had to make a very straightforward arrangement with them: before they spoke to us, they should look at their legal advice and think about what they could say to us. In practice, however, they were commonly told that as long as they did not discuss the case they could talk about their experiences, which they did. Others asked us how they might take further action, and we were able to refer to guidance from In Care Survivors Service Scotland and to set out our own knowledge of these matters. Moreover, if they wanted, we were prepared to help them make contact with the police, and some of them chose to do so. Without any doubt, however, any future confidential forum's effectiveness and smooth running would be assured if the appropriate legal framework were to be in place.

Anne Carpenter: The legal framework could have made it quite difficult for the independent chair and commissioners and we individually sought quite a lot of independent legal advice to ensure that our obligations were made clear.

John Wilson: I thank Mr Shaw and Ms Carpenter for those responses. It is important that people understand the legal protections that are available not only to witnesses but to the commissioners themselves with regard to what they could ask, what they could do and how they could take forward any issues that were identified.

Returning to your report, I wish to examine an issue that is covered on page 6. There, you indicate the number of people who were contacted and how they were contacted. You indicate that you advertised the work of the time to be heard forum. That was done through the national press and one or two other publications, including *The Big Issue*.

You go on to indicate that Quarriers sent out letters to individuals who had been in touch with it over the previous five years. In addressing some of the problems that existed or which have been identified, was it sufficient for Quarriers to contact former residents and others who had been in touch with the organisation over those five years? Would it have been more appropriate for the forum to get in touch with former residents and others from Quarriers, rather than for the communication to come from Quarriers itself?

If we take forward the report, should it be up to the individual organisations with which children were in care to write to the people who should be participating in any future investigations? Should it instead be the investigatory body—given access to the resident records and possibly employee

records—to make the contacts, rather than having them come through the very organisation that some people are making complaints against?

Tom Shaw: That is an absolutely fair question. We operated as we did because we had to address practicalities and realities. We were concerned that advertising in the national papers and *The Big Issue* and putting information on websites might well not be enough. To be honest, we were delighted with the way in which Quarriers was willing to add a further channel. Quarriers had contact details for the 500 or so people who had been in touch with it, but it could not release them to us under data protection legislation. Quarriers took my letter and acted as a postal service. The people who came to our hearings commonly turned up with my letter, which had come through that channel.

Mindful of all the sensitivities around that, and of the position that Quarriers was in when it sent out those letters, people were thankful that that had been done. Some of them said that they did not see anything about the forum in the press—they did not know anything about it.

I did not give you one piece of information. This is a detail about the 98 people we heard from and the 114 applicants who were accepted. Four of them were accepted after the closing date. I felt that I should not refuse anyone as we were within the limit of 100 that had been set. However, some people had not heard about what was happening. One of those people was someone living in Hong Kong, whose previous address had been in Germany, and whose letter had gone from Quarriers to Germany to Hong Kong. Obviously, they did not receive the letter for quite some time.

If there was more direct responsibility on the part of a future forum in determining the distribution of such things, that would be better. We have said in our report that, were the time to be heard pilot forum to be rolled out, it would be better for the commissioners, the chair and the staff to be in place much farther in advance of the commencement of the exercise. I firmly believe that none of the information that comes from someone who wants to be heard should go to a third party. There should be privacy in all dimensions. We eventually got that, but some applications initially had to go to a postbox at SurvivorScotland. That is the way that things were intended to be, but it did not happen with the majority of applications. In future, it would be better if there was no contact of that kind.

14:30

John Wilson: I accept Mr Shaw's comments about how data protection could have been used to prevent the forum from directly contacting

former residents and other people associated with the homes. That is an issue.

A concern of some former residents of children's homes is that the organisations with which they were placed continue to deny any wrongdoing and to deny that anything happened in homes when those people were residents. We need to ensure that no adult who wants to raise an issue is sifted through the organisation with which they were placed. We must reach people directly, so that they can come forward without feeling that the process involves a gatekeeper that is the organisation against which they have a grievance. That needs to be on the record.

Des McNulty (Clydebank and Milngavie) (Lab): I have read the report and listened to what you have said, Mr Shaw. You focused strongly on acknowledgement rather than on accountability—it is obvious that the time to be heard forum focused its attention on that. As you acknowledged, you reached only the tip of the iceberg, because you focused on one institution. Historically, we know that child abuse took place in a series of institutions, so we have put one toe into a pool and not gone deeply into the matter.

You emphasised that the system is closed and confidential, which you argued has positive aspects, as it gives people who want such a system confidence in the process. However, I have two problems with the system. A confidential and acknowledgement-focused approach will not uncover the true extent of child abuse that happened in Scotland. One consequence of the route that is being taken is that, almost by definition, it will not open out the reality of what happened.

We can compare Ireland and Scotland. The consequence of the Irish process has been that historical child abuse and its extent have had a high profile in Ireland, caused all kinds of political debates and been controversial in the political system. Many people who have been subject to such abuse in Scotland feel that we have drawn the matter only slowly and grudgingly out of the closet. I do not criticise what the time to be heard forum has done—it is valid for the people who welcome the methodology—but the methodology, piloting and confidentiality have in some ways not allowed or encouraged the stories of what happened to individuals to emerge into the public domain.

Of course, there are examples of cases—I have an article from *The Sun* last week in which an individual set out what had happened to her—but I am sure that many people's stories will not be uncovered by the process that you have laid out. Even if we accept that your process is good for the people who choose to use it, does it do what we

as a society need to do to acknowledge the true extent and nature of what went on in the past?

Some people want to follow a process that involves simply acknowledgement, but other people want a process that encompasses accountability. To an extent, we have not provided that yet. The more we emphasise the track that you are here to talk about, the less likely it is that we will go down the route that some people want to see us go down, which is that there should be a formal process of accountability for what has happened.

Ultimately, people who are victims should have the right to choose between an acknowledgement route, if that is what they prefer, and an accountability route. Our problem in Scotland is that there is no accountability route. In a newspaper report on what Shona Robison had to say, it is stated that

"The forum would also help provide people seeking compensation with information on how to do so."

I do not understand how you will be able to do that. My understanding is that it is almost impossible for people to get their cases into court. There is no mechanism through which people can get legal aid for this kind of case. As long as we deny people the ability to go down the accountability route, we are not properly acknowledging what went on and it will stay in the cupboard. Some people who do not want acknowledgment will not take their cases down a route that they do not think will give them satisfaction. By the way in which it has been constructed, the acknowledgement route is designed to maintain confidentiality and thereby avoid exposure. If we carry on down that route, we will not uncover what happened or face up to it as a society.

Although I can understand what you say about needing to offer individuals who want an acknowledgement route the best thing for them, if we are also denying people an alternative and not getting the facts as they are beginning to be uncovered out into the public domain, we are not facing up to the issue.

Can I make one final point, convener?

The Convener: Briefly please. We set aside half an hour for the item and we have already gone over that.

Des McNulty: I think that the point that I have heard you make before, Mr Shaw, which is that we will learn lessons through the process, is very strange. I do not need a lengthy process that costs hundreds of thousands of pounds to tell me that the kinds of things that happened in what we describe as historical child abuse are wrong. That is not what this is about. It does not really tell us

much about good practice, which is, I hope, miles removed from the kind of things that we are talking about today.

We need to talk about systems of protection and how we prevent this kind of thing from ever being allowed to happen again. We need to find a way of getting the truth out, to give people a different route to the justice or accountability that they seek, and to stop pretending that what we are doing here is a way of delivering good practice, because I do not think that it is.

Tom Shaw: It is certainly not a pretence about how to deliver good practice. It is a test to see whether a particular model is effective in allowing those who want this kind of opportunity to be heard. It is not a statement that being heard is the be-all and end-all. We were asked to pilot one dimension of one aspect of responding to the needs of former residents, and we are convinced that that has value in its own right.

The lessons to be learned are about how experiences in the past can inform practice today. We focused heavily on reports of people who have left care during the past nine years and we saw the same issues being referred to in those reports as we identified from people who were there 30 years ago. There is therefore something wrong with the adjustment of practice, provision and priority that means that we are not succeeding in delivering the improvement and the guarantee.

As Anne Carpenter said, the motivation of everyone who came to be heard was to see what they could do to make the situation better for people today. That is an extraordinarily generous and responsible view from people who were there in the past.

The pilot did not attempt in any sense to say, "This is typical or representative of the whole population of former residents." That is why I keep emphasising that it was a test of a model and just one way of doing it. We will not know the extent of the problem until other opportunities are in place—whether a confidential forum or a combination of that and other things. It will take a while. It took nine years in Ireland for the process to work its way through. It is not something that will happen instantly. As I see it, one of the great frustrations for those who are former residents is about how quickly it can happen. However, you cannot let it just happen instantly; it must work its way out.

The outcome of the process is to say that here is one part of what could be an effective range of opportunities for former residents. It is vital that those who want to have that opportunity have it. More important than what Anne Carpenter and I can say is that that is what the independent evaluation of the process said. Eighty-seven per cent of those who were heard and were then

separately and independently consulted about it said that it was a worthwhile process for them. I feel that that is a very powerful affirmation of its appropriateness for them.

Des McNulty: For them, but that is a self-selecting group.

Anne Carpenter: Mr McNulty referred to lessons being learned. There is absolutely no doubt that we know that child abuse is wrong in any context. What we got from the pilot as well was that many participants said that all they ever wanted was to feel loved and cared for. My concern is that a lot of the practice in child care settings now is so much about avoiding abuse that it is not necessarily about providing a loving and caring background in which abuse is not possible. One of the lessons that can be learned, therefore, is how we can make children feel safe and cared for in a context that also balances against abuse happening. That is probably a very good lesson to get.

Bill Butler: I am sure that colleagues will concur with me in thanking Ms Carpenter and Mr Shaw for coming along today and talking to the committee. At the meeting in late December at which we decided to invite them to discuss the forum's report with us, it was also suggested that there might be time to invite Government ministers to give oral evidence on what happens next. That will not be possible, given that dissolution is on 22 March. However, given what we have heard today, I think that the time to be heard forum is a step in the right direction, as John Wilson said, but it is not the only thing that needs to be done along the way. It has opened up the acknowledgement dimension, to which both witnesses alluded. However, what happens next has still to be considered in terms of creating good practice and a dimension of accountability, all with the objective of creating environments in which the safety of children is paramount.

Having said all that, we cannot possibly close the petition—that would be absurd. We need to suggest to our successor committee in the legacy paper, which I think we will consider next week, that it seriously consider inviting Scottish ministers to come to the committee to talk about what happens next in light of the forum's report, and that it consider what can be taken from the report as progress as well as the other things that the report does not deal with, so that both the acknowledgement dimension and the accountability dimension are progressed and we get to a stage where survivors—victims—can, according to their own lights and wishes, progress their case as far as they wish. I suggest that we put all that in our legacy paper.

The Convener: Does the committee agree with that?

Members indicated agreement.

The Convener: The petition will be continued and will be put forward for the legacy paper. I thank Tom Shaw and Anne Carpenter very much for coming, as well as Des McNulty, who I am sure will follow the petition's progress with interest.

Low-dose Naltrexone (PE1296)

The Convener: The next petition is PE1296, by Robert Thomson, on behalf of LDN Now Scotland, on national health service availability of low-dose naltrexone. As the committee agreed on 8 February, we will take evidence on the petition to clarify issues around the process for considering research bids of the nature highlighted in the petition. I welcome from the Scottish Government Professor Bill Scott, chief pharmaceutical officer; Dr Alan McNair, research manager; and Peter Craig, research manager. I invite the committee to ask questions.

14:45

Anne McLaughlin (Glasgow) (SNP): Good afternoon. When we had an evidence session with the petitioners, we were all struck by their personal testimonies. I think that we took evidence over a year ago—certainly the petition came to us 15 months ago. Since then, I have been contacted by a number of people who have benefited from the use of LDN. As you know—this is the point of the petition—the difficulty is that it is not widely prescribed by general practitioners, which means that people often have to get it by private prescription.

There are two issues. One relates to LDN itself, which I will come on to, but there is also a broader question. If, as the petitioners and others have suggested, the pharmaceutical companies are not interested in research, primarily because it is not that profitable, does that mean that it is low cost to the NHS? What other routes to getting that research done could the petitioners go down? They are not medical experts or researchers and they do not have the contact lists. They want LDN because they are suffering from illness. They do not have the money that you would normally need to do this research without the aid of one of the pharmaceutical companies.

Professor Bill Scott (Chief Pharmaceutical Officer): Where there are large patient populations with unsolved need, the pharmaceutical industry would generally be interested. The profitability then becomes about whether the patient population is large enough for the industry to invest.

We met LDN Now at the committee's request. I think that we had a good meeting. The outcome was probably unsatisfactory for the petitioners in

that they did not go away with many solutions. However, all of us in the room agreed that, in order for clinicians to have some sort of faith in LDN as a potential treatment, they need to gather evidence. In order for any product to make its way through to full licensing, there needs to be robust evidence of its effect. It can then proceed through by manufacturers picking it up and applying for a licence. When it has a licence, it can be prescribed within the NHS, provided that the Scottish Medicines Consortium approves or recommends it.

What we have at present is a product for which there is no product licence, which has to be prescribed as a special medicine. That means that the prescriber takes greater responsibility for that drug than they would do were it a licensed medicine. As I understand it, the petitioners' frustration is how you get the evidence if you cannot get the research.

Today, my colleagues from the chief scientist office will, I hope, take you through some of that process to see whether we can find some accommodation or even help the petitioners to take things forward. We made it clear to them that, in our opinion, because there is a plethora of diseases in the treatment of which LDN could be used, the best way forward would be to start by focusing on one disease—probably, in common parlance, the low-hanging fruit—on which effect can be demonstrated. Making such a breakthrough would give other researchers confidence to pick up other areas.

Anne McLaughlin: Did you say that your colleagues were going to take us through how they might help? Although the petition is on the provision of LDN, I would like to know how people who feel that other medicines help can go down the same route.

I want to come back on what you said about special medicines and medicines that are not licensed but which can be prescribed. We were given the example of mitoxantrone, which is prescribed as an anti-cancer drug. It is not licensed to be used to treat multiple sclerosis, but it is routinely used for people with MS. The petitioners asked why, given that that is the case with that drug, it cannot be the case with this one. Moreover, naltrexone, which is 10 times the strength of low-dose naltrexone and is toxic, is routinely prescribed and is licensed. For me, that is quite confusing. I am interested to find out about those seeming contradictions.

Professor Scott: If a clinician prescribes a medicine off licence, they take responsibility for that. That responsibility is wider than it would be if they were prescribing a licensed medicine, so there is an additional risk.

There is the licensed product naltrexone, but there is no formulation of a low-dose naltrexone. It would be for manufacturers to determine whether they wanted to look into producing a low-dose formulation and having it licensed. A new medicine would have to be created from the existing medicine, which is why a special manufacturer would be required to produce it.

Anne McLaughlin: I take the point that if pharmaceutical companies think that there is a big enough body of people out there to allow them to make money, they will produce it, but is that not just an admission that their primary interest is profit? They are private companies, so that is likely to be the case. If LDN is not a high-cost product, it will not be highly profitable. It is fair enough to say that it is up to manufacturers to produce it, but will they do so? The petitioners' argument is that they will not, because it is not that profitable.

Professor Scott: I cannot say whether profit is the only thing that the industry thinks about. There are some social issues that are taken into account in the suite of medicines that they produce or in their areas of interest. In the past, we have had examples of cases in which special medicines that have been made up on the order of individual clinicians have been taken up by the industry. Sometimes, those are no longer cheap or low-cost medicines, because producing them to that level for licensing requires an incredible amount of investment. The industry sets a cost that is realistic relative to its economic investment in producing the new formulation.

Anne McLaughlin: Notwithstanding my point that there are wider issues than those to do with a single drug, I would not have thought that the process would be terrifically expensive, given that we have naltrexone. However, I am not a pharmacist and do not know how to produce lower-dose medicines.

You said that your colleagues would come on to explain the route that people can take if they cannot get pharmaceutical companies interested.

Dr Alan McNair (Scottish Government Directorate for Chief Medical Officer, Public Health and Sport): I concur with Professor Scott. For any medicine to be adopted, we need to have proof of its safety and, importantly, its efficacy. The most appropriate manner in which to determine that is through a clinical trial. As the petitioners have pointed out, naltrexone is a fairly old drug and is no longer under patent, so it is unlikely that a pharmaceutical company would invest resources to allow a clinical trial to take place using that particular drug.

Other routes to fund research or clinical trials are through Government or charity funding. In Scotland, the chief scientist office has the remit of

funding biomedical research, and we certainly fund clinical trials. If someone wants to apply to us for funding, we ask only that the principal investigator on the study is a Scotland-based academic, either at a university or in an NHS board. Apart from that, we are totally non-prescriptive. If the petitioners approached a researcher, they could apply to us for funding.

The Convener: Dr Craig, do you want to add anything?

Dr Peter Craig (Scottish Government Directorate for Chief Medical Officer, Public Health and Sport): No—that is the situation as it applies to the chief scientist office.

Anne McLaughlin: The petitioners have said that they cannot afford to obtain a marketing authorisation to apply for the drug to be licensed, as it costs about £200,000. If they went down the route that Dr McNair describes, would they have to do that? I understand that they are speaking to a Scotland-based academic who might be able to assist them, but would they then have to find something in the region of £200,000?

Dr McNair: The petitioners would need to get ethical approval and research governance approval for the study, but those costs would be met from the grant that would be awarded, so there would be no onus on them to find any financial contribution to those processes.

John Wilson: Professor Scott referred to clinicians prescribing off licence. I have a constituent whose GP will give medication off licence. However, no other GP in the practice or the practice nurse will give that medication because it is off licence. The petitioners have asked for guidance to be given to GPs on LDN so that they understand how it can be used to treat patients who request it. My concern for that constituent is that, if they require another GP because the current one retires or for some other reason, that other GP would not administer the drug, which would be detrimental to the individual patient. If a patient who has been receiving the drug finds that no other clinician, GP or practice nurse is prepared to administer it, how do they get access to it?

Professor Scott: I understand the dilemma, but the Medicines Act 1968 is clear that the prescribing of any medicine is the responsibility of the individual clinician. For an unlicensed medicine, there is an additional responsibility. The clinician must weigh up the need for that medicine against the fact that it is not licensed.

15:00

John Wilson: We are talking about the administration of a licensed drug that is off licence

in terms of the number of injections that are received. I am trying to get clarification on that point. The current guidance places restrictions on how often the drug should be administered, but an individual GP or clinician may decide to administer it more often than the guidance prescribes.

Professor Scott: Where a medicine must be made up by the pharmacy, there is an obligation on the clinician who orders it to take responsibility for its quality and safety. Clinicians must weigh up such matters against patient benefit.

Anne McLaughlin: Is methotrexate a drug that is prescribed for some auto-immune disorders? Someone contacted me to say that it is off licence, which makes it sound like I am buying alcohol. Although significant side effects and costs are associated with methotrexate and there is limited previous experience of its use for auto-immune conditions, doctors seem happy to prescribe it, but they are not happy to prescribe LDN. The person who contacted me suggested that pharmaceutical companies are promoting methotrexate more heavily. There must be a procedure that GPs follow when they decide which medicines they will prescribe off licence. What is the difference between a GP's deciding to prescribe methotrexate, which has side effects, as I mentioned, and is more costly, and their deciding to prescribe LDN?

Professor Scott: Earlier, you talked about marketing authorisation, which authorises pharmaceutical companies to promote medicines to the clinical community. Where they do not have authorisation for an unlicensed medicine, they cannot promote it. I do not see how the industry can be promoting methotrexate for unlicensed use.

Anne McLaughlin: That has been suggested as the reason why methotrexate is used more. What reason would you suggest?

Professor Scott: I cannot comment on individual cases, as I do not know them. Generally, methotrexate is a medicine with which you must be careful, but general practitioners may be taking advice from consultants who are experts in the field. At the end of the day, it is for general practitioners to determine what the advice is and to take responsibility. One issue in relation to LDN is that there is a paucity of data about efficacy, which probably gives clinicians another dimension to take into account.

Anne McLaughlin: That is an interesting answer. The petition asks the Scottish Government

"to provide guidance to all GPs on LDN protocol and require them to collect LDN clinical data."

The petitioners have anecdotal evidence on the issue, but they agree that there is a lack of data. In their view, when they get private prescriptions for LDN because they cannot get it from their GP, they are spending a lot of money to keep themselves well, so that they can continue to work and to contribute to society, which is saving us money in the long run. They are having to go through all that. The petitioners are saying, "We believe it works. We know that there needs to be evidence, but there are barriers in the way of collecting the evidence." One of the things that the petitioners are looking for is for the Government to ask GPs to collect clinical data. Perhaps that could be considered, as a way forward for the petition.

Professor Scott: We would not promote an unlicensed product or unlicensed use of a product. In the context of Scottish Government policy, we advocate the use of medicines in a cost-effective way, where there is an evidence base.

I come back to our starting point. We had the conversation with LDN Now, in which we suggested that it major on one indication to start with, and we offered assistance in the creation of an application in that regard. I think that Dr Gilhooly was enthusiastic about taking the idea forward and was looking for a clinical researcher to tie up with. The offer to get the application in is still open. Applications go to an expert panel, which gives advice if it thinks that a trial could do with some improvement.

Dr McNair: The two research committees in the CSO receive in excess of 300 applications per annum and any application that comes to us goes for external expert review. The review is fed back to the applicants, even if they are unsuccessful, so it provides a useful framework for further development of the application.

Anne McLaughlin: What annual budget is available for successful applications?

Dr McNair: The maximum that we can give out for any one project is £225,000. The total research budget for the two committees is around the £10 million mark. We are not a huge funder. Let me put that into context: Cancer Research UK's annual research budget is in excess of £300 million.

Anne McLaughlin: I know. I used to work for Cancer Research UK, raising some of those funds.

Would £225,000 be enough to enable LDN Now to conduct the research that it needs to conduct if it is to get to where it wants to be?

Dr McNair: A sum of £225,000 is probably at the lower limit of what is needed to conduct a full randomised clinical trial.

The Scottish Government, through the CSO, also contributes in the region of £6 million per annum to the Office for Strategic Co-ordination of Health Research, which runs the National Institute for Health Research health technology assessment programme. I think that the budget per application for that is unlimited.

We regard our role as being to fund pilot trials to allow evidence to be gathered, which, if appropriate, could lead to a successful application to something like the HTA programme.

The Convener: Thank you; that was helpful. I invite suggestions from members on what to do with the petition.

Anne McLaughlin: In the debate in the Parliament last week on the work of the Public Petitions Committee, I suggested that in future we should invite petitioners to contribute to evidence sessions. I am feeling the frustration of not having that happen today.

We have heard what we already knew: an application could be progressed for a limited budget for a pilot trial, which could lead to something else. The issue is of great interest to me, but I am not sure what the Public Petitions Committee can do with the petition. I would be interested to talk to LDN Now after this meeting, but I am not sure that there is an awful lot that the committee can do, other than to be aware of the matter, as individuals, and to look forward to receiving progress reports.

We should congratulate the petitioners on raising awareness not only of LDN but of the wider issue of the difficulty that red tape can cause patients when they try to access treatments that they have found to work for them.

The Convener: The suggestion is that we should close the petition. Do members agree?

Members indicated agreement.

The Convener: I thank our witnesses for their attendance.

Planning (Protection of National Scenic Areas) (PE1295)

The Convener: PE1295, by Flora Dickson, is on the planning system and the protection of national scenic areas. Do members have views on how to deal with it?

Bill Butler: The Scottish Government has clarified that the designation of a site as an NSA does not mean that there is a prohibition on development there, and that, under planning policy regulations, each proposed development must be considered on its own merits. The Government has also confirmed the circumstances under which an environmental impact assessment is required

and has said that it believes that the current requirements are adequate. In the light of that, I do not think that there is much more that the Public Petitions Committee can do. In all honesty, all that we can do is close the petition.

The Convener: Do members agree to close the petition?

Members indicated agreement.

Public Bodies (Accountability) (PE1337)

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

Bill Butler: Again, I think that the Public Petitions Committee has taken this as far as we can. We have extracted responses to the questions that were put by the petitioner. I am certain that the committee has no role to play in the specific consideration of any individual case that gives rise to a petition, and we will not sit in arbitration with regard to any dispute. I think that there is nothing more that the committee can do other than to close the petition.

Nanette Milne (North East Scotland) (Con): I have a great deal of sympathy with the issue that Mr Campbell raises, but the matter is becoming focused on one particular circumstance, and I do not think that the committee has a remit to carry on. Reluctantly, I agree with Bill Butler's suggestion.

The Convener: Does the committee agree to close the petition?

Members indicated agreement.

Gypsy/Traveller Encampments (Guidance) (PE1364)

The Convener: PE1364, by Phyllis M McBain, calls on the Scottish Parliament to urge the Scottish Government to review all guidelines relating to Gypsy Traveller encampments.

We have been joined by Alex Johnstone, who would like to speak to the petition.

Alex Johnstone (North East Scotland) (Con): I am grateful for the opportunity to say a few words and give you an update on the situation.

I must, as ever, declare that, as a resident of Stonehaven, I have first-hand experience of some of the problems that have led to this petition.

Stonehaven traditionally receives visitors from the travelling community—it is not uncommon to find them in the surrounding area in the summer. The visit of the travelling community has begun early this year. Since I last addressed the committee, there has been further agitation

between the Traveller community and the settled community. I am disappointed that that has happened, but I should point out that it has not taken place to the serious extent that it might have. Specifically, there was an incident related to the creation of a Facebook site, which led ultimately, as these things do, to members of the public making some threatening remarks towards the Travellers. I am grateful that the Facebook site has now been removed and should not be a problem. In addition, a number of incidents, which I will not list at this stage, have brought about some public protest.

15:15

However, this morning, I attended a meeting of the Kincardine and Mearns area committee of Aberdeenshire Council, simply as a member of the public. I can report that community leaders and those within the community who are able to show leadership took a responsible view and the situation has not become inflamed as a result of some of the exchanges that took place in recent days.

The council is looking for a solution, including the identification of a permanent Travellers site, and believes that it may be making progress on that. The Minister for Housing and Communities, Alex Neil, will meet representatives of the council on, I believe, Thursday. However, I am disappointed that it has taken so long to make any progress on the matter and that we are still merely hopeful that success is just around the corner.

The Government and the council have worked hard to make what progress they have. It would be of great value if the Parliament were to take the issue on—ideally at committee level at this stage—and join the other agencies that are moving forward and seeking a solution to the problem.

My sympathy has always been with council officers and police officers, who find themselves with an obvious problem to deal with and no means to deal with it legitimately. Those people require our support, and we need to ensure that the Parliament maintains a stake in the direction of travel on the issue. That is why I would like the Parliament to take the petition on and deal with the issues that it raises until we have a long-term solution for the travelling community and for the people who find it difficult to live close by them.

Nigel Don: I thank Alex Johnstone for his update and his comments about the leadership within the settled community in Stonehaven, which I am delighted to hear. I am not surprised to hear them, but I am delighted, because one of the issues that emerges from the papers that are before us—if I can take us back to the petition,

although it directly affects Stonehaven—is the need to establish contact with leadership within the travelling community. That is one of the issues that the Government and, indeed, our society need to address. It is relatively easy to find the leadership within the settled community; it is much more difficult to find leadership among those who travel.

In passing, I note that the papers suggest that the Government still thinks that the term “occupational traveller” has a specific meaning. That is very much a side issue, but it is one that we need to address, because other people, including the police, feel that we could do without that term. It needs to be addressed, but it is at the perimeter of the issue.

Everybody agrees that we need more authorised sites, because if there are good places for the Travellers to go, they are more likely to go there and the police can legally move them on. That is the nub of the matter. Everybody knows that, so we could argue that the petition has run its course. However, it seems to me and to the petitioner—to whom I am grateful for her comments; I notice that she is with us again today—that there is a community that has not yet been spoken to: the private landowners who could provide us with halting sites. There has not been enough discussion with them in the collective discussion to sort out the matter at a national and local level, although the council will have discussed it with them.

We need to hold on to the petition. I am certainly against closing it at this stage. We need to find ways of establishing leadership within the travelling community and we also need to find ways of establishing a dialogue with landowners. That may be difficult for the committee to do—I can see the clerks frowning and thinking, “How do we handle this?” We have to be clever in how we work this through, but it is part of the national exploration of the issue.

My only other point, to come back to the petitioner’s comments, is that her suggestion of a charter of conduct may be entirely appropriate. Travelling communities, by definition, travel. That is a very different form of social life and it would be helpful if it were clearly understood how they wanted to live and how others felt that they should live. Some kind of charter about how the settled and travelling communities work together in the modern age might be very useful, but it comes back to needing leadership within those communities.

Nanette Milne: The Government has established a working group on the issue, but if there is no representation from the travelling community on that group, is it too late for us to ask the Government to bring a member of the

travelling community on to it? The Government says that it will bring forward a strategy by March 2011, so maybe we are a bit late to do that.

Nigel Don: I will answer that question, because I am on the working group. As a point of fact, there is a representative from the travelling community, but we do not seem to have ready access to representatives of specific travelling clans—if I may I use that term kindly. Part of the problem is dealing with specific groups of Travellers, large and small—families, clans, describe them how you will. That is where our efforts are probably breaking down.

The Convener: Is the petitioner included on the working group?

Nigel Don: No. Perhaps that requires a little bit of explanation. The working group was designed by Alex Neil, the minister, to try to get the people who could make something happen quickly make it happen. It includes only three representatives—two MSPs and one councillor—to ensure that there is a public input. That is the nature of the forum.

A forum that involved everybody would be very different, and probably would not achieve much very quickly, whereas the minister was determined to see what he could make happen quickly.

The Convener: So the committee's view is that, if we continue the petition and include it in our legacy work, we should at this stage seek responses from the Government to the points raised by the petitioner. In essence, its response will go forward to our successor committee.

Nigel Don: We know that a week can be a long time in politics. By the time that Parliament reconvenes in May, I think that those two months will have proven to be a pretty long two months in the context of the issues that are before us. At that point, our successor committee and the Government will be several pages further on in the book and they will be able to reconsider where they have got to.

The Convener: Is it agreed that the petition will be continued and put forward for legacy work?

Members indicated agreement.

Political Education (PE1368)

The Convener: PE1368, by Rowena Carlton MSYP, on behalf of the Scottish Youth Parliament, is on political education for all. I ask for members' views on how to deal with the petition.

Bill Butler: My information—colleagues have the same information before them—is that the note of the meeting between the Scottish Government and the petitioner has only recently been received. The meeting took place on 24

February and I think that we received the note of the meeting in the past 24 hours. I do not think that there has been sufficient time for us properly to consider it, so I suggest that we defer consideration of the petition to the next, and indeed last, meeting of the Public Petitions Committee, on 8 March.

The Convener: Is the committee happy to defer the petition to our next meeting?

Members indicated agreement.

Justice for Megrahi (PE1370)

The Convener: PE1370, by Dr Jim Swire, Professor Robert Black QC, Mr Robert Forrester, Father Patrick Keegans and Mr Iain McKie, is on behalf of Justice for Megrahi. I ask for views and welcome Christine Grahame to the meeting. Christine, would you like to speak briefly to the committee before we take a view on the petition?

Christine Grahame (South of Scotland) (SNP): I have not seen whether the Government has responded to your letter so, if it is procedurally appropriate, I would like to hear what the committee has to say and see whether I can add to it. I have not had sight of any response from the Government, so I do not know where we are.

The Convener: There is a response from 3 February, which I think is available on the Parliament's website.

Christine Grahame: Forgive me for my incompetence on the website. I had a go at looking for a response but I could not find anything—I am sure that it is lurking somewhere on the website.

I am happy to make a few comments.

The Convener: If you would like to take a minute to look at the response, that would be fine.

Christine Grahame: Is it okay if I let the committee comment first? It will take me a bit of time to read the response.

Bill Butler: I suggest that we take a five-minute comfort break, in all senses of that phrase.

Christine Grahame: I have my uses.

The Convener: The always gallant Mr Butler has come to the rescue and suggested a five-minute comfort break. Is that agreed by the rest of the committee?

Members indicated agreement.

15:25

Meeting suspended.

15:31

On resuming—

The Convener: In resuming this meeting of the Public Petitions Committee, I welcome a delegation from the German Bundestag. They are here for a short time to observe the committee's work. We will also see you tomorrow. Welcome to the committee.

We are currently considering PE1370, and we are going to hear a submission from Christine Grahame MSP.

Christine Grahame: Thank you, convener, and thank you for giving me time to read the correspondence. Whether they have the same view as me, everyone accepts that the al-Megrahi issue remains unresolved and to many people the situation is highly unsatisfactory.

I have had the opportunity to read the correspondence. I am quite interested in the issue that the Lord Advocate raises. Quite rightly, we get the usual stuff about the position of the Lord Advocate and the Crown with regard to appeals: it is standard stuff. However, the final paragraph says:

"The criminal investigation in respect of others responsible for this crime remains open and the position remains as stated to the Scottish Parliament by my predecessor".

However, I was curious to find out how many officers were assigned to continuing the investigation and following a freedom of information request several months ago was told that there is one. The Lord Advocate uses the words

"The criminal investigation ... remains open"

but when only one police officer is engaged on it, it is more like file management—if I may put it that bluntly—than a serious and funded investigation to find those who were responsible.

We should remember that Mr al-Megrahi's conviction relates to him being involved in placing a device within a suitcase. Even if he is guilty as convicted, there must have been others; that is known. My concern is that although only one police officer is assigned to the case, freedom of information is blocked because lots of information is unavailable if an investigation is on-going, which could be the case for decades. I draw that matter to the committee's attention.

I am also aware that the Cabinet Secretary for Justice has replied on the issue of the extra test under the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 to

which I referred the committee, saying that it will be under some kind of review. I am still not satisfied that the Parliament has not somehow put another block in the path of this case and others in which the Scottish Criminal Cases Review Commission considers that there has been a miscarriage of justice by saying that it is somehow in the interest of justice for the case not to be referred. If there has been a miscarriage of justice, it follows that it is in the interest of justice that something be done about it. However, I note that the SCCRC test is under review.

The First Minister also announced that he would, if re-elected, introduce primary legislation to deal with the issue of data from third parties pretty much preventing publication of the SCCRC report—they can refuse that.

Given all that and, to some extent—I do not want to overegg the pudding—the flux in international politics with regard to Libya and, indeed, the position of al-Megrahi himself both within Libya and his physical state, I hope to persuade the committee to keep the petition open, allow the review group to report and see whether primary legislation is introduced after the election, if the First Minister is re-elected, or what any other incoming Administration might do. I also ask the committee to consider what happens way beyond these shores with regard to Mr al-Megrahi, Gaddafi and all the evidence. There are now so many conspiracy theories that it is time that we had a clear look at the role of Scottish justice in the case. The issue is not whether Libya or any other country was guilty; it is simply whether Abdelbaset al-Megrahi was rightly convicted, and we have not heard the answer to that yet.

Anne McLaughlin: I agree with Christine Grahame. Having read the petitioners' response and the other responses and having listened to Christine Grahame, I think that there are too many unresolved issues for us simply to close the petition. Given current events, as Christine Grahame says, and with al-Megrahi close to death, it would be wrong of us to close the petition and forget all about it. I know that, because it calls on the Scottish Government to hold an inquiry and the Scottish Government has said no, that is technically the end of the petition. However, the petitioners make a number of suggestions, such as that the committee might hold an evidence session. Clearly, the present Public Petitions Committee cannot do that, but the suggestion could be included in our legacy paper or we could refer it to the Justice Committee, which might be a better option. I do not know whether we can do that at this stage in the session—Bill Butler is shaking his head. If not, I suggest that we include it in our legacy paper. I do not want to close the petition.

Bill Butler: I shook my head, but that is simply my view. I do not know whether the convener can give us a formal view on whether the suggestion could be referred to the Justice Committee. Given the fact that dissolution is on 22 March, there will be no chance of the matter being taken up by the present Justice Committee—that is all that I meant. I apologise if I inadvertently shook my head.

The two questions that we asked have been answered, although perhaps not satisfactorily. I would not be averse to suggesting in the legacy paper—it can only be a suggestion, as we cannot instruct—that our successor committee might wish to take the matter up. By that time, the review group will have reported. I think that that is all that we can do. There has been a response to the two questions that were suggested by Christine Grahame at our previous meeting, which I echoed.

The Convener: Our difficulty is that the petition was specifically worded, but what the petitioners are asking for is a much broader look at the issues. Because of the wording of the petition, I am not sure that, under the standing orders, the matter could be taken forward or whether the petition would have to be resubmitted to a new committee with different wording.

Fergus Cochrane (Clerk): Whether members consider that what is being asked falls within the petition's parameters is very much a judgment call for them. Mr Butler is quite correct to point out that if the committee was minded to flag up the petition in the legacy paper for the session 4 committee it would be for the next committee to consider the action that it wanted to take. One option might be to refer the petition to the next justice committee and invite it to consider holding a specific inquiry on the issues that have been highlighted. As I say, it is a judgment call for members whether the responses that the committee has received adequately address the specific issue raised in the petition or whether they feel that certain issues that fall within its parameters should be pursued.

Anne McLaughlin: The petitioners refer to

"two occasions on which erroneous information has been supplied to the Scottish Government ... in respect of our petition"

and have said that the decision made in response to the petition not to have an inquiry was based on that information. I do not know whether or not it was erroneous but, to me, such comments mean that the petition remains open. The petitioners are asking us to say to the Scottish Government that the information was not correct and to ask it to look at it again, which I think falls within the original petition's parameters.

Bill Butler: The successor committee might well conclude that the present Scottish Government

has responded and decide to close the petition on that basis, in which case the petitioners would have to resubmit a petition. On the other hand, as the clerk has suggested, the committee might decide that it would be appropriate to refer the petition to the justice committee. Who knows? We do not. All I and my colleague Anne McLaughlin are suggesting is that we do not bring the shutters down right now and that in our legacy paper we refer the petition to the successor committee, which will then have to decide whether it wishes to close it or whether there is some other avenue that can be explored. On that basis, convener, I suggest that we include it in our legacy paper.

The Convener: Are other members happy with that suggestion?

Nanette Milne: Can we make a recommendation to the successor committee?

The Convener: We can make a suggestion.

Nanette Milne: We could put that in writing.

Fergus Cochrane: Just to be helpful, for most petitions the legacy paper, which will come before the committee next week, will suggest to the successor committee the issues that it might want to pursue.

The Convener: Do members agree to include the petition in our legacy paper?

Members indicated agreement.

The Convener: I thank Christine Grahame for attending.

Access to Justice (Environment) (PE1372)

The Convener: PE1372, by Duncan McLaren on behalf of Friends of the Earth Scotland, is on access to justice in environmental matters.

Bill Butler: I think that we need to continue with this petition, which will mean including it in the legacy paper. After all, a whole series of questions need to be answered. For example, the petitioner has pointed out that we could ask the Scottish Government about the cost of litigating, about ensuring access to justice in the sheriff court as well as in the Court of Session, about the fact that deferring to the Court of Session Rules Council does not take full account of the requirement that the test for ensuring inexpensive access to the courts must not be reliant and so on. I also believe that a number of questions could be asked of the Scottish Legal Aid Board including, for example, how many legal aid applications raising regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002 that have been granted have been environmental cases and how many have been refused. In all honesty, I do not think that we can close the petition.

Robin Harper (Lothians) (Green): We could ask the Scottish Legal Aid Board what advice it has given the Scottish Government on the impact of regulation 15 on environmental legal aid applications in view of the Scottish Government's obligations regarding access to environmental justice and whether the Government will canvass recent judgments and judgments that are to come this year. There is quite a lot happening with Scottish law and environmental legal aid cases, and people need to keep themselves up to date. We are in a state of flux with interpretations and it is important that the Government fully investigates what the general drift is.

The Convener: It has been proposed that we continue the petition and that it should be included in the legacy paper. Is that agreed?

Members indicated agreement.

Free Methanol (Ban) (PE1376)

15:45

The Convener: The next petition is PE1376, by James McDonald, on banning the presence of free methanol in all manufactured products in our diets. Can I have members' views, please?

Nigel Don: I am grateful to the Food Standards Agency and the petitioner for their responses. The questions have been clarified, but the answers have not yet been.

If members can stand a bit of chemistry, I will refer them to the first page of James McDonald's most recent e-mail. It has been clarified that there is no disagreement about the chemical pathway for methanol to get back to CO₂ and water, but it is clear that there is complete disagreement about the chemical environment in which it does so. The paragraph that is roughly in the middle of the second page of the Food Standards Agency's letter says:

"The methanol released from aspartame is the same as that present naturally in food"—

that is not in dispute—

"released from pectin, produced endogenously or used industrially. It is the same chemical formula and structure and there is no chemical or biological precedent for assuming it will behave differently."

That is not what the petitioner is saying. The chemical formula and pathway may be the same, but the environment is very different. The petitioner has told us that when methanol appears in our natural foods, such as fruit juices, it comes with all sorts of "inhibitors", as he has described them—chemicals that get in the way and mean that the speed of the response is very different. The net result is that the equilibrium conditions on the way through the chemical pathway are very

different, with the result that individual chemicals will be present in very different proportions. I apologise to those who did not want to be dragged back to school, but that is as close to Parly speak as I can manage.

The Food Standards Agency knows that I am a great fan of it, but it has not addressed the point that the petitioner has raised on the other chemical inhibitors that are present in natural foodstuffs. I would be grateful if it did so. I am not here to tell members where the right answer lies, but it would be extremely helpful if the Food Standards Agency could tell us.

I am grateful to the Scottish Parliament information centre, whose brains I picked recently because I thought that it might be helpful if we could bring one other person to the party, if members were happy to keep the petition open. It has been suggested that Professor Michael Lean, who is professor of developmental medicine at the University of Glasgow, might be well versed in the subject in view of his research interests. I wonder whether we should write to him and ask him to clarify his understanding of the matter. I do not think that the issue is desperately complicated to those who are skilled in the art, but I would like to know whether we can get agreement on the factors around the chemistry.

The petition and all the evidence that is before us suggest that those who have to make decisions about the matter seem to disagree very much with each other and are uncertain about what the answer should be. Experts say one thing and other people vote another way, which comes as no surprise at all. I tend to feel that if we can sort out the chemistry, it might be easier to see where the right answer is.

The Convener: The suggestion is that we continue the petition, which would mean putting it into legacy work.

Nanette Milne: I was going to suggest closing it, as I thought that we had come up against a brick wall, but Nigel Don has made a sensible suggestion, which I am happy to go along with.

The Convener: Do members agree that we should continue the petition and that work on it should be included in the legacy paper?

Members indicated agreement.

Incineration (Green Alternatives) (PE1379)

The Convener: PE1379, by Michael Gallagher, is on green alternatives to incineration in Scotland. Can I have members' views on how to deal with this petition, please?

Robin Harper: I declare an interest in that I have been involved in campaigning against the

building of large-scale incinerators for some years. I would like this petition to be included in the legacy paper for our successor committee. As members will be aware, there is considerable concern across Scotland about the number and scale of incinerators. Today I received a paper, which I would have passed on to the committee earlier, by Dr Ulrich Loening, who formerly ran the Centre for Human Ecology in the University of Edinburgh. He is a well-respected scientist who has been working for some months on the paper. He has pulled a lot of research together that shows that it is possible that the net contribution of large-scale incineration up to 2050 would be to increase the amount of carbon dioxide in the atmosphere. Given the seriousness of that conclusion, we must propose that the successor committee consider the petition further.

The Convener: Does the committee agree that we include this petition in the legacy paper for consideration by our successor committee?

Members indicated agreement.

Football Tickets (Prohibition of Resale) (PE1380)

The Convener: Our last petition today is PE1380, by Andrew Page, on prohibiting the resale of football tickets. Can I have members' views on how to deal with this petition?

Anne McLaughlin: The Scottish Government has said that demand exceeds supply for only a small number of football matches, so it does not see the point of introducing legislation on the resale of football tickets, which would probably be expensive to enact. The Government states that there are not enough instances of the practice to justify legislation but that it expects the Scottish Football Association to have robust procedures in place to deal with it where it does happen.

The Government has said no to the petitioner's request and has given what I think are reasonable explanations as to why it does not want to introduce legislation in that regard. We are all against ticket touting for anything, but the Government's response is fair enough in this case. I think that we can do no more with this petition and that we should close it.

The Convener: Okay. The suggestion is to close the petition. Is that agreed?

John Wilson: Sorry, convener, but I am trying to keep up my track record, so I will say that we should not close the petition, because I think that there is an issue here. The petition seeks legislation to prohibit the resale of tickets for football matches in Scotland, but there is legislation on ticket touting in general in England and Wales and there is legislation on ticket sales

for the London 2012 Olympic games. Interestingly, the SPICe briefing that we received on the petition indicates that ticket touting was effectively outlawed in England and Wales in 1994 through United Kingdom legislation but no corresponding legislation seems to have been introduced in Scotland at that time.

The Government's stated position that it is up to the SFA to restrict ticket touting undermines what the petitioner is trying to achieve through his petition, which is to make it clear to ticket touts that they are not welcome and that legal action will be taken against them under Scottish legislation that prohibits them from reselling tickets. We have just secured places for another two Scottish football teams in Europe next season, so the petition might become more relevant given the number of European games that might take place in Scotland.

We should ask the Government to rethink its view on having in place legislation similar to that in England and Wales so that we have uniform treatment of ticket touts across the UK.

The Convener: We have had two suggestions. Can I have further views, please?

Bill Butler: At this stage in the diet, we really do not want to divide on an issue. I suggest that, if it is practicable, we ask the Government what John Wilson suggested. I think that we will get a speedy but negative answer, but let us try to get a response that we can come back to next week. If the response is negative, then to all intents and purposes there is nothing more that we can do in this diet with the petition.

John Wilson: Just to add to my earlier point on the legislation for ticket sales for the Olympics, which is a serious issue, a number of venues in Scotland will be used for the Olympics. There is legislation in England and Wales to deal with ticket touting for Olympic venues. Not having similar legislation in Scotland undermines the British Olympic Association's efforts to prevent ticket touting for Olympic venues and activities.

The Convener: Okay. Is it agreed that we contact the Government speedily to get an answer to the proposed question and that we defer our decision on the petition until we can consider its answer at our last meeting?

Members indicated agreement.

The Convener: Thank you very much. That concludes today's meeting. I thank members for their efforts. Our next meeting will, sadly, be our final one and will be in a week's time on Tuesday 8 March at 2 pm.

Meeting closed at 15:56.

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