



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 11 November 2014

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PUBLIC PETITIONS COMMITTEE
16th Meeting 2014, Session 4

CONVENER

*David Stewart (Highlands and Islands) (Lab)

DEPUTY CONVENER

*Chic Brodie (South Scotland) (SNP)

COMMITTEE MEMBERS

*Jackson Carlaw (West Scotland) (Con)
*Angus MacDonald (Falkirk East) (SNP)
*Anne McTaggart (Glasgow) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*John Wilson (Central Scotland) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jeff Adamson
Jackie Baillie (Dumbarton) (Lab)
Professor Paul Braterman (Scottish Secular Society)
Spencer Fildes (Scottish Secular Society)
Neil Findlay (Lothian) (Lab)
Ian Hood (Learning Disability Alliance Scotland)
Helen McDade (Planning Democracy)
Dr Pauline Nolan (Inclusion Scotland)
Clare Symonds (Planning Democracy)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Public Petitions Committee

Tuesday 11 November 2014

[The Convener opened the meeting at 09:45]

New Petitions

Creationism (Schools) (PE1530)

The Convener (David Stewart): Good morning, ladies and gentlemen. I welcome you all to today's meeting of the Public Petitions Committee. As always, I ask everyone to switch off electronic devices, because they interfere with the sound system.

No apologies have been received. Please note that the meeting will be suspended at about 10:45 to allow those who wish to do so to go to the remembrance day commemoration in the garden lobby at 11:00. The meeting will resume once the commemoration has concluded. People in the gallery are also welcome to attend the commemoration.

The first item of business is consideration of four new petitions. The committee agreed to invite petitioners to speak to three of the petitions. The first new petition is PE1530, by Spencer Fildes, on behalf of the Scottish Secular Society, on guidance on how creationism is presented in schools. Members have a note by the clerk, the Scottish Parliament information centre briefing, the petition and a submission.

I welcome to the meeting the petitioner—thank you very much for coming along—and Professor Paul Braterman, who is a board member of, and scientific adviser to, the Scottish Secular Society. Please speak for about five minutes, after which I will ask some questions and then ask my colleagues to come in.

Spencer Fildes (Scottish Secular Society): Good morning, and thank you for giving us the opportunity to speak to our petition.

Our petition has attracted international attention because of the issues that are involved. Scotland's future depends on science, especially the life sciences—a topic that the convener has addressed in the chamber. Signatories who endorse the petition, including teachers, ministers of religion and three Nobel prize-winning scientists, have written messages of support.

Evolution and the unity of life are central concepts to modern biology, just as the existence of atoms is central to the concept of modern

chemistry. The objections to a common ancestry, such as those that are put forward by the Centre for Intelligent Design, and objections to an old earth, such as those that are put forward by so-called creationist scientists, lack all intellectual merit.

If the committee disagrees with what I just said, you should dismiss our petition and give your reasons for doing so. However, if in your assessment you agree with us, with the overwhelming scientific evidence—a sample of which we have sent to the committee—with the science that is outlined in the curriculum for excellence and with the massive stated consensus among the world's scientific communities, the only remaining question for us to answer is how we best protect our children from this campaign of misinformation.

The issue is not about religion; it is about science. Despite some reports, the Scottish Secular Society is neutral on matters of faith and has a faith-diverse membership. As the Scottish Parliament information centre briefing shows, we have no wish to restrict discussion of any religious or philosophical viewpoint; indeed, there is across the faith spectrum a strong tradition of welcoming evolution as a manifestation of divine creativity. In view of what we have seen recently—from the challenge from People With A Mission Ministries, to the plain declaration of intent by the Centre for Intelligent Design, to other evidence that we can present—it is no longer credible to ignore the fact that there are organisations that are attempting, with some success, to penetrate our schools in order to present creationism and young earth doctrines as valid alternatives to established science.

Why cannot we, as the Government suggests, just leave the matter to the good judgment of our teachers? First, some teachers—let us hope not many—may well be creationists. I have come across that through interactions with my child's nursery nurse. Secondly, there are places where teachers, although they may not be creationists, might experience pressure from the community to introduce creationism and ignore teaching evolution.

Thirdly, teachers might feel unprepared to teach about evolution, especially if they expect a creationist challenge from the local chaplain. That will be especially true at primary school level, through religious, moral and philosophical education that is rarely taught by science graduates.

Finally, and most important, it is rarely the teachers who are the problem; it is volunteer visitors and externally funded chaplains whose offerings are often gratefully accepted by schools that are currently coping with many other

pressures. That is why our petition refers to materials being “presented” rather than taught. In the absence of the guidance that we seek, any teacher who would want to object to any particular creationist activity might well find themselves in an impossible position.

I hope that you are all familiar with the scandal at Kirktonholme primary school. What was most alarming about that incident was that the chaplain who was responsible had been in post and assisted by volunteers from his church for eight years undetected. The material that was distributed there beggars belief, which is why we have prepared copies for the committee to peruse. Such material is typical of so-called creation science, which is a mid-20th century development, as my colleague Professor Paul Braterman will possibly explain later.

The Perth-based “Challenger” bus regularly visits many schools throughout Scotland. Visiting the bus is incorporated into the school day and children are strongly urged to take part. Parents who have given permission are not normally told that the bus is provided by People With A Mission Ministries, which is an organisation that features materials from Ken Ham’s Answers in Genesis, which is a notorious United States-based young earth creationist organisation that has attacked this petition twice now.

Other creationist organisations also distribute materials or offer speakers to schools. Numerous schools are known to have creationist chaplains and creationist denominations, including US-inspired extreme creationist sects. They are often represented on school chaplaincy boards; we can supply details for councils. Some local authorities’ education committees, for example in South Lanarkshire, Clackmannanshire and Falkirk have members from churches that hold extreme creationist young earth views and could make things difficult for teachers in their employ. The organisation Truth in Science, which is young earth creationist, has sent to every school copies of a creationist pseudo-text, which is misnamed “Explore Evolution”. That book is a production of the Seattle-based Discovery Institute, with which the Centre for Intelligent Design is closely associated.

The Creation Research Institute, which promotes creation science among creationist groups, also offers speakers to schools. One school in the Highlands has seen the Genesis story being taught as literal truth and has, in the past, designated a corner of a classroom as the “creation corner”.

To our knowledge, at least three schools have hosted debates between creationists and defenders of mainstream science; in respect of two such cases, the councils denied, in responses

to freedom of information requests, that such a thing had ever happened. In the words of one of the schools:

“Last session our Higher RMPS class attended a Q & A with a creationist and this was then followed up with a similar session with an evolutionist as part of their course, but this was part of their studies and not advocating one set of beliefs.”

That is absurd. It is almost like having a question-and-answer session with a flat earther and, for the sake of balance, a sphericalist. The fact that the debate was even staged implies an intellectual parity that does not exist.

Given those facts, it is no longer credible to deny that this is a problem that is in need of official attention. The first step in solving any problem is to recognise that Scotland has a problem.

The Convener: I have a couple of questions on the other bits of evidence that the committee has had. One argument was that what you are suggesting might breach the European convention on human rights, which contains the right for parents to have their children educated in line with their religious and philosophical views. What is your response to that?

Spencer Fildes: I do not think what I suggest would breach ECHR rights. If those rights were implemented as those people see it, we would be teaching the majority of pupils that the earth is 6,000 to 10,000 years old, which would clearly contravene many areas of the curriculum for excellence.

The Convener: The other criticism is that your petition does not recognise the difference between creationism and intelligent design. How do you respond to that?

Spencer Fildes: I will let the professor answer that question, if that is okay.

The Convener: I take it from the fact that you whistled there that you do not agree with that, professor.

Professor Paul Braterman (Scottish Secular Society): That is right.

It is a magnificent sight to see the director of the Centre for Intelligent Design asserting, while turning purple in the face, that intelligent design and creationism have nothing to do with each other. However, as I said in my response to paragraph 1.7 of his submission, the essence of his case is to cast serious doubt on the idea that natural processes, primarily evolution, have given rise to the diversity of life, which he does by pretending that there is serious doubt about what he calls macro-evolution—which most of us would call evolution—as part of the overall unity of life.

I am sure that he is sincere, but I believe that he is a bit muddled. Although he believes that intelligent design is not creationism, it incorporates as part of its rhetorical structure a questioning of what is, we submit—we believe that the committee should also regard it so—the established science of the common descent of living things. Nearly all advocates of intelligent design deny what they call macro-evolution, and in doing that they are going against the evidence. Indeed, one of the web organs for the intelligent design community is called “Uncommon Dissent” in order to emphasise that common descent, which we consider to be part of the absolutely established science, is in their view not established science. By our definition, they are definitely creationist.

The Convener: Thank you for that. As I am sure you are aware, the petition is about a very large area; I suspect that we could debate it all day, but unfortunately we have only 20 minutes. I am sure that my colleagues will focus on the practicalities of education policy, because that is the crucial issue for us.

Chic Brodie (South Scotland) (SNP): Good morning. Mr Fildes, I heard your evidence on the role of teachers, and that you are not dissembling in terms of what they should or should not teach, so why should they not be allowed to present intelligent design or creationism to pupils, if they so choose?

Spencer Fildes: It is not a case of whether they should or should not be allowed; it is about the context and how it is presented. For example, my son was in the woods and asked a question about fauna. The teacher was unable to give a scientific or biological answer, but immediately referred to “God makes all things and we’re all from Adam and Eve.” My son came home and asked me more questions about that. I am an atheist, so I was not happy about it. I went back to the school to—

Chic Brodie: Forgive me, but the petition says that you want to

“bar the presentation in Scottish publicly funded schools of separate creation and of Young Earth doctrines”—

Professor Braterman: —as valid

“alternatives to the established science”,

which is important. If you think that they are valid alternatives to the established science, you should say so and you should throw us out.

Chic Brodie: That validity is surely underpinned by the fact that—according to the point that Mr Fildes made—it should be down to teachers to determine the curriculum and how they present it.

Spencer Fildes: If it is down to teachers, my experience is that that is not being implemented fairly and—

Chic Brodie: What evidence do you have for that?

Spencer Fildes: The evidence that I have for that comes from many areas. I have just given you my personal experience, so you have had it from the top and—

Chic Brodie: Yes—but what wider experience is there? Your frame of reference is quite particular.

Spencer Fildes: Of course.

Chic Brodie: What wider evidence do you have that the case is as you say it is?

Spencer Fildes: I have the evidence that we get through the Scottish Secular Society. We are basically a medium; we offer platforms for people from all walks of life and all faiths to report to us and discuss matters. They can do so through an open-debate platform and privately through email. Many of the concerns that are raised with us come through as private matters, unfortunately. The people concerned wish the information to remain confidential and do not want to be named, but nevertheless make a complaint. However, they are quite happy for us to refer their statements to the committee. One such statement of evidence of the discussion of creationism taking place comes from a concerned Highland parent who wishes to remain anonymous. I will quickly read out a paragraph from her statement:

“A couple of years ago, I went to an open afternoon in the school to view children’s work on display. A banner in the corner of the classroom said ‘Creation Corner’. Intrigued, I went over to investigate, and in my naivety thought it was going to be an art display. No, it was exactly what it said, a big, handmade wallchart with flipping pages ... detailing how the world had been created in seven days ... ‘in the beginning there was light and dark’ ... I was pretty horrified and seem to remember asking one of the teachers where evolution corner was”,

for which she was met with only “dirty looks” from the teacher.

Chic Brodie: What debate have you had with the main bodies for, or perpetrators of, intelligent design and creationism? It seems that you are throwing bricks at each other without even having had that discussion before coming here.

10:00

Spencer Fildes: That is because we are not seeking compromise with them.

Chic Brodie: I see.

Spencer Fildes: There cannot be compromise with creationism in a science class.

Jackson Carlaw (West Scotland) (Con): Good morning. I am something of an atheist, too, albeit that I am an unconvinced and unhappy one. You

said that your petition had attracted international interest and support, although I note that it has no signatories attached to it. Perhaps you can explain that.

I was struck by how Charles Darwin might recognise your predicament. At one point, the role was completely reversed, in that it was the science that was being challenged, rather than the alternative.

I was not present at the creation of the planet.

Spencer Fildes: Likewise.

Jackson Carlaw: I am sceptical about most things, although I tend towards the evolutionary scientific theory that you espouse. I would really like to know what you think is the worst that can happen.

Spencer Fildes: The worst that can happen is distortion of learning in the classroom. The life sciences and biomedical industries in Scotland are flourishing at the moment and we have some of the greatest stars and some of the most creative minds coming through. I would be horrified to think that there was any potential for those minds from a young age to be in any way distorted by suffering any form of cognitive dissonance regarding young-earth doctrines or creationism, and what is actual science and what is real. That is not a case of philosophising over science; it is about teaching the facts.

Jackson Carlaw: Do we not live in a slightly more real environment? For example, my mother's mother told her that she was delivered by a stork. She then went to a biology class and heard that there was a more scientific way she was delivered. She went home, where her mother told her that, although that might be how people do things in Scotland, it was certainly not how they do them in England.

My point is that parents have a role in education. Young people are impressionable, but education is a very rounded thing. Would seeking to drive underground what you and I both, I think, regard as a ridiculous notion serve any particular purpose? I am not persuaded that any real harm is being done in all this. In the wider context of education, parental involvement and the school, do you not think that the evolutionary model will prevail?

Spencer Fildes: Yes—it will prevail in all matters. What you are doing is diluting the argument somewhat.

As regards your mother being told about storks, that is pretty much still the case in Scotland, so we have an issue with sex education.

Jackson Carlaw: My point is that people, through a form of education, come to understand

that the truth is somewhat different, without it necessarily having been emphasised in the way that you might have wished.

Spencer Fildes: I will pass that point to Paul Braterman, but before I do so, I ask this: why should we assert such untruths to our children in an educational establishment, in particular in the science class? That is not a whole-world view.

Jackson Carlaw: I have gone through life with children being taught about socialism, which is equally discredited, but it does not do any great harm for them to be told what it is all about. I wonder what you think the damage to the intellect of a child will be overall. Do you just have a concern that such teaching might lead to something more sinister, or can you point to anything that has actually been damaged in the development of children into adults as a result of their having been exposed to the theory in the midst of all the real science?

Professor Braterman: Yes. There have been cases reported in the press—not in Scotland, I am glad to say—of students walking out of university lectures that are based on evolution. There is concern in the scientific community about the effect of evolution rejection on subject choice at university level.

My colleague Roger Downie, who is now emeritus professor of biology at the University of Glasgow, has carried out interesting research into the effects of creationist belief on subject choice among students. He is certainly one of the people, if I may presume to say so, with whom the committee should communicate.

I know that Jackson Carlaw is a strong believer in individual choice and freedom and in the individual making up their own mind. I agree with you on all of that. Nonetheless, if you tell children untruths at a stage when they will believe you, that will affect their outlook on life indefinitely, especially considering that most of them will not study science at university.

Jackson Carlaw: We tell children that Santa Claus exists.

Professor Braterman: We tell children that Santa Claus exists in inverted commas, as it were.

Jackson Carlaw: There were no inverted commas in my house.

Professor Braterman: We do not tell children that Santa Claus exists and that their eternal salvation depends on believing that Santa Claus exists.

The Convener: I ask witnesses and members to speak through the chair, otherwise it becomes a rammy, as they would call it in Glasgow.

Before I bring John Wilson in, I state for the record that nearly 700 people have signed the petition.

John Wilson (Central Scotland) (Ind): Good morning, Mr Fildes. You mentioned the issues that have been identified in Clackmannanshire, Falkirk and South Lanarkshire. Can you expand on what those issues are? They go to the heart of your petition, and I would like you to expand on the reasons why you think that it was necessary to bring the petition to the committee and the Parliament.

Spencer Fildes: We have to present an evidence base to illustrate that this is going on—that is a primary concern—so we have made freedom of information requests asking specific local authorities whether they have invited anyone to talk on or debate creationism.

An example of how some education authorities are unaware that that is taking place comes from East Renfrewshire Council's response to our freedom of information request. We asked:

"Within the past three years, have any of East Renfrewshire's publicly funded schools been addressed by speakers from Creation Ministries International, or by any other speakers who claim that macro-evolution is speculative, or that the evidence supports separate creation over evolution, or a young Earth over an ancient Earth?"

The answer was no. However, our friends in the Scottish Secular Society were made aware that that was not the case and reported that back to us.

I have here a statement that was forwarded to us—it is from a conversation that took place with one of the reverends who had, indeed, been in a school. The reverend says:

"I went to Williamwood High School yesterday, at the request of an RE teaching friend, to discuss creation with his Higher Class. I had a great time. They were very nice and all left claiming to take the Creationist position more seriously. The basic message was 'I believe the bible, you believe the scientists' theories, neither of us can prove our positions—but I have a hopeful view of life and ... God who will do right in the end and a saviour who will give me everlasting life'. Like I say, I had a great time."

John Wilson: Thank you for that response.

The issue, which is picked up in some of the evidence, is concern that pastors, preachers, ministers, reverends or whoever from particular organisations—especially from the creationist/intelligent design side of the argument—are going into schools and presenting their arguments outwith RE lessons, and that they are bringing volunteers to assist them in schools. What evidence do you have of that? The current guidance that is issued by the Scottish Government says that teachers are responsible for what is taught in the classroom. If—as you said—someone says to a teacher, "I've got three people

who are prepared to come and work with your class on a particular issue," what is wrong with that?

Spencer Fildes: There is absolutely nothing wrong with it as long as they operate within the rules of the curriculum for excellence. Unfortunately, some come in with alternative agendas—as in the case of Kirktonholme primary school last year. I have mentioned one instance in East Renfrewshire that has gone unnoticed, but such things went unnoticed in East Kilbride for eight years. There is no real mechanism in place—no reporting structure or audit trail. Forgive me, but I do not know how the school inspectors deal with the issue. There is no reference point or guide such as we are seeking—something that anyone could refer to—on recording such matters or incidents. That is what we are asking for.

John Wilson: To expand on that slightly, in the Scottish education system we have three types of education. We have the private sector—

Spencer Fildes: Yes—public schools.

John Wilson: In Scotland, we talk about private education. We also have denominational education and non-denominational schools. We know the religious affiliation of denominational schools. In non-denominational schools, some teaching staff have a particular faith. Is it wrong for those teachers to impose that faith on the pupils who attend those non-denominational schools?

Spencer Fildes: Yes.

John Wilson: I have no further questions, convener.

Anne McTaggart (Glasgow) (Lab): Good morning, panel. Mr Fildes, you have mentioned—

Spencer Fildes: Sorry, but can I just say that it is pronounced "files"—pretend that the d is not there.

Anne McTaggart: Sorry.

You have mentioned on several occasions that something went unnoticed in an area—I think that it was Hamilton—for eight years. How could such things be rectified?

Spencer Fildes: It could be rectified by this committee asking the Education and Culture Committee to seek evidence from different groups to get their considerations and opinion on whether guidance is needed. We believe that it is needed.

Another issue that was raised with us was a six-day mural in a school in Kirkcaldy—I have a photograph of it here. The mural was placed in a school corridor for all the school to see. Someone commissioned that—they asked for it to be produced. I sent an email to the authorities in Fife to ask about the matter, and my email was

referred directly to the school. The school phoned me and the head denied that the mural was on the wall. However, I have photographic evidence that was sent by an anonymous parent that the mural was on the wall, but it has since been taken down.

Those kinds of things go on, but as soon as they are challenged, people tend to contend that they do not go on. We do not want that conflict. That is what we are trying to avoid by asking for clear and explicit guidance.

The Convener: Just for the record, if you are referring to an item that we have not seen, could you leave it with the clerks?

Spencer Fildes: I have a copy for you.

The Convener: Could you leave it with the clerks, for reference purposes?

Spencer Fildes: I thought that I had included it, so apologies for that.

Anne McTaggart: If such things were recorded, would that satisfy you?

Spencer Fildes: It is not a case of satisfying us; it is about satisfying teachers and parents. They are at the root of the petition, which seeks to ensure that they have the knowledge that their children will go through primary and secondary school with their scientific knowledge and exposure to science unhindered. That is all that this is about. We are not asking for a massive change in legislation. We are not asking for much—we are just asking for guidance to be issued to get rid of any ambiguity on the issue.

Anne McTaggart: You mentioned that you have not been in contact with any other agency with regard to the petition. Will you explain why?

Spencer Fildes: First and foremost, we are a secular society and, as I said, we are of many faiths and none. We have a discussion among our members on our Facebook open group, which is sometimes one of the most hotly debated areas on Facebook, I think. We also consult with our administration board. We hold monthly administrative meetings. On the board, we have pagans, Muslims, Christians, ex-Muslims and so on.

However, the most important people who we speak to are the parents who directly contact us regarding the matter. It is because of those consultations and complaints that we are here today. They are the ones who have written to us with the complaints and distressed emails telling us that they want something to be done. The problem with the system is that they want to remain anonymous. They do not want their names to be out in the open, for fear of reprisals from the school. If we have guidance that says that people

cannot do such things, that would make it much easier for all bodies.

The Convener: We are short of time, but we have time for a quick final question from Chic Brodie, after which we will go to the summation.

Chic Brodie: Leaving the subject aside for a minute, do you have any idea of where in Scottish publicly funded schools we should bar talk about alternatives?

Spencer Fildes: Such as?

Chic Brodie: Do you have any idea whether it should be barred in other areas of science, English or what have you?

Spencer Fildes: When you are in art, you do not teach maths, and when you are in biology, you do not teach chemistry. I think that that is fairly self-explanatory. I do not think that we should bar anything else; we should merely make a clear distinction that creationism is incompatible with science. That is it.

Professor Braterman: If people wanted to go into schools to deny the reality of atoms, we would be here talking about that, too. That does not happen with atoms, but it does with the fact of evolution.

Chic Brodie: That is healthy if there is a compromise and on-going discussion. Is that not the case?

Spencer Fildes: The compromise is that parents and children and people of faith have their church and their home, and they have religious and moral education and philosophy. They have many avenues for discussing the issue; it just should not be discussed in the science class.

10:15

Professor Braterman: If you were talking about compromise within the biology community—I think that you were—of course there is on-going discussion about the mechanics of evolution, just as there is on-going discussion about the ultimate causes of gravity, but there is no dispute that if you drop something, it falls. Equally, there is no dispute within the scientific community—apart from synthesised disputes—about the fact that you and a monkey are second cousins, you and a monkey are fourth cousins, and you and a mushroom are fourth cousins. That is how it is, and the record shows it. To deny that is to deny established science.

The Convener: I am not sure whether that is unparliamentary language. [*Laughter.*]

Thank you very much for taking part in the debate. I suspect that we could have debated the petition for several hours. We now move to the

summation phase, so there will be no further questions for the witnesses.

The committee needs to consider its next steps. Members will be aware that we could write to the Scottish Government, which is in charge of education policy, or a variety of other groups. Another option is that we could refer the petition to the Education and Culture Committee, which has as its *raison d'être* consideration of such issues. Members could come up with a variety of other options. I seek a steer—

Spencer Fildes: Can we make one last statement?

Professor Braterman: There is no such thing as doing nothing at this stage, because to do nothing is to send a signal that you are happy with how things are. I respectfully suggest that among the people you should write to are the Association for Science Education, which is—

The Convener: I am sorry—I should have made it clearer that we have stopped taking contributions from witnesses; we are at the summation stage.

Professor Braterman: I am sorry.

The Convener: To summarise: we could write to the Scottish Government, which is in charge of education policy; we could refer the petition to the Education and Culture Committee; we could choose from a variety of options that members come up with; or we could, of course, close the petition, which is always an option.

Chic Brodie: I subscribe to the view that we take that final option. As recently as August, we had a statement from the Government that spoke about continuing the tradition that politicians should not determine the curriculum, which it said was a matter for educationists. It does not seem to me to be particularly constructive to write to the Government to get the same answer.

John Wilson: My view is that we should write to the Scottish Government to seek clarification on the situation, particularly in light of the examples that the petitioners have given. There is an issue on which it is necessary for the Scottish Government to provide clarity. We are clearly not in the situation that we read about in the headlines, in which allegations were made against a particular religious grouping that was trying to influence what was taught in the school curriculum in Birmingham. In light of that, it would be useful to get an up-to-date view from the Scottish Government.

I also suggest that we should write to the Educational Institute of Scotland, because the petitioners have made reference to its views, the Scottish Secondary Teachers Association and the Association of Headteachers and Deputies in

Scotland. In my view, a clear steer needs to be given to teaching staff about what it is permissible to teach in lessons. I know that my colleagues will not be particularly happy with that suggestion, but I think that a steer needs to be given so that we do not find ourselves in a situation in which a group or individuals have the resources to go into an educational facility and teach something that may conflict with current views and current science. We need to be very careful about what is taught in the classroom. Like one of the witnesses, I have experience—at my daughter's primary school—of a headteacher who came from a particular faith background imposing that faith background on religious education classes and not widening out the curriculum to bring other faiths and beliefs into what was taught in the classroom.

We need to get a clear steer from the Scottish Government, and it is important that we contact the other organisations that I mentioned, because they need guidance.

David Torrance (Kirkcaldy) (SNP): I am happy to go along with John Wilson's recommendations.

Anne McTaggart: I am not happy to go along with John Wilson's suggestions. On 31 August, a Scottish Government spokesman stated:

"Teachers, head teachers and professional educationalists decide what is taught in Scotland's schools."

As Chic Brodie said, the tradition

"that politicians should not determine the curriculum is highly valued and remains a cornerstone of Scottish education."

The Convener: Does that mean that you are going for closure of the petition?

Anne McTaggart: Yes.

Angus MacDonald (Falkirk East) (SNP): I think that there is an argument for referring the petition to the Education and Culture Committee but, at this early stage, I feel that it is only fair that we should get an up-to-date response from the Scottish Government, despite the fact that it made a statement to the *Sunday Herald* as recently as 31 August, in which it said:

"This longstanding tradition that politicians should not determine the curriculum is highly valued and remains a cornerstone of Scottish education."

I think that it would be unfair to close the petition at this stage. We should give the petitioners the benefit of the doubt and get an up-to-date response from the Scottish Government.

Jackson Carlaw: It is because of the statement to which Angus MacDonald has referred that I am slightly terrified by John Wilson's suggestion that we should become highly prescriptive about what is taught in schools.

I am not in favour of closing the petition at this stage but, in light of what the Government has already said, I would be in favour of writing to it to ask it to confirm its view that the present system—and the discretion that it provides for—is robust enough to ensure that, in the round, children come out of school with the broadest possible education, which should be based on rational common sense; there should be no need to interfere in the content of that.

When I asked what harm had been done, the witnesses gave some anecdotal examples of things that might have occurred at international universities. That seemed very distant and far removed from the experience in primary schools in Scotland today. We should check that the Government believes that robust enough systems exist for it to cope with any curious views that might emerge and that, if it ever felt that that was under threat at some stage in the future, it would review the issue in the light of those changed circumstances.

The Convener: All members have now spoken. It is clear that a majority of members support the suggestion that we write to the Scottish Government. Can I just confirm that members are also happy that we write to the various educational institutions that John Wilson referred to?

Anne McTaggart: No.

Chic Brodie: No.

The Convener: So a majority of members are in favour of writing to the Scottish Government.

I ask members to indicate whether they are in favour of John Wilson's suggestion that we also write to the EIS, the Scottish Secondary Teachers Association and the Association of Headteachers and Deputies in Scotland.

For

MacDonald, Angus (Falkirk East) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Wilson, John (Central Scotland) (Ind)

The Convener: That is a majority.

Do members have any other issues that they want to raise before we move on?

We will write to all the organisations that we have agreed to write to and will discuss the petition again at a future meeting. The clerks will keep the petitioners up to date—you are welcome to sit in the public gallery at that meeting; you can check with the clerks when it will take place. Thank you both for coming along and giving evidence to us.

10:23

Meeting suspended.

10:25

On resuming—

Social Care (Charges) (PE1533)

The Convener: The second new petition is PE1533, by Jeff Adamson on behalf of Scotland against the care tax, on the abolition of non-residential social care charges for older and disabled people. Members have a note by the clerk, the Scottish Parliament information centre briefing and the petition.

I welcome to the meeting Jeff Adamson, Ian Hood and Dr Pauline Nolan. I invite Mr Adamson to speak for around five minutes, after which I will set the ball rolling with some questions. As I said at the start of the meeting, we will have to conclude at a quarter to 11 for the remembrance event, but I will ensure that the witnesses get their allocated half an hour of time. If they do not get it now, they can come back after the event to get their full quota, because the issue that they raise is important.

Jeff Adamson: Good morning. I want to focus on three areas of community care charging: how it affects me, the inconsistency in charging and the detrimental effect of charging on the carers of disabled people.

In 1999, an undetected tumour next to my spine haemorrhaged, leaving me paralysed and needing 24 hours care each day. After my discharge from hospital, I tried to continue working, but it proved to be impossible, and I had to retire. I was comforted by the knowledge that, having paid into a pension scheme, I would have an income that, along with disability-related benefits, would allow me to lead a decent life instead of merely existing. The reality proved to be quite different.

In 2000, I agreed a support package with my local authority, Midlothian Council, and I employed personal assistants to assist me with various tasks that would allow me to continue to lead a normal life. However, there is a price that disabled people who need support have to pay—and it is a price that severely restricts their choices, control, freedom and dignity. That price comes in the form of care charges. They are means-tested; in my case, I am allowed a personal allowance of £137 a week. Any income that I have above that amount is taxed by Midlothian Council at a rate of 70 per cent. In my case, that amounts to £661 a month.

No account is taken of any disability-related expenditure. For example, the average family fuel

bill is approximately £1,200. As I need a warmer temperature than most, my bill is nearer £2,000.

No account is taken of the cost of maintaining my house, the mortgage for which I paid off when I stopped working. If I was still paying my mortgage, the interest payment would be added to my personal allowance. If I was renting a property, the cost would be added to my allowance and any repairs would be paid for by the landlord.

Many people would think that I was foolish to pay off my mortgage and should have invested the money instead. However, disabled people who receive community care support are discouraged from saving. In Midlothian, as soon as any savings reach £6,000, every extra £250 is judged to be earning £52 a year, which means that if I had more than £16,500 in savings I would have to pay the full cost of my support package.

So far I have mentioned only Midlothian Council's charging policy. Since 2002, the Convention of Scottish Local Authorities has been trying to achieve consistency in charging policies throughout Scotland. How consistent are those policies now? I will focus on the areas that committee members represent, taking my 80 hours of support per week and my monthly charge of £661 as an example. In East Renfrewshire, I would pay £93 less per month; in Glasgow £188 less; in East Lothian £235 less; in Highland £263 less; in North Lanarkshire £378 less; and in Falkirk a staggering £558 less per month.

I should add that Midlothian is not top of the charging league. If I lived in Moray, I would be paying £948 a month, which is £287 more than I currently pay. It is 12 years on, and we are still nowhere near achieving any consistency on charging policies.

10:30

Care charging also affects my wife, who cares for me for more than 43 hours each week. When I first came out of hospital, my wife was working full time. Adding those hours to the hours spent providing my day care meant that she was working at least 80 hours a week with no days off.

That way of life eventually took its toll on her physically, but more important it affected her mental health. She was diagnosed with depression, and she had no choice but to reduce her working week by half. That has resulted in a positive change to her health and wellbeing, but the downside is the effect on her earnings. By providing me with care, she is being financially penalised in two ways: first, by losing half her pay, and secondly, by having to subsidise the reduction in my income as a result of care charges. Like me, she has had her choices, control, freedom and dignity eroded.

Community care is needed to eliminate discrimination, promote equality of opportunity and protect human rights. Without it, many disabled people cannot participate in society on an equal basis with others. We believe that charging breaches at least seven different rights. Is this the way in which a fair and just society should treat disabled people and their carers—by taxing them to live a normal life? I think not, and I would challenge anyone to disagree.

The Convener: Thank you for your contribution. First, I must apologise—I should have mentioned that Jackie Baillie is a strong supporter of the petition. Do you wish to speak to the petition, Ms Baillie?

Jackie Baillie (Dumbarton) (Lab): I am happy to let the committee discuss it.

The Convener: I have a couple of questions, after which I will bring in my colleagues.

Mr Adamson, you mention in your submission that care charges by local authorities have risen by 12 per cent in the past three years, and I think that you said—it was not quite clear—that Aberdeen City Council's charges had doubled in the past two years. Is there an argument for having much greater consistency throughout Scotland? Otherwise, we end up with the clichéd postcode lottery in which charges in one area—you mentioned Moray—are much higher than in another.

Jeff Adamson: I will pass that question to Ian Hood.

Ian Hood (Learning Disability Alliance Scotland): The figures in our submission are for the three years up to last year. If we add in the current figures, the increase in care charges over the past four years now stands at 21 per cent.

Unfortunately, there is, indeed, a postcode lottery. In some areas, the rate of increase has been very high, whereas in other areas such as Dundee, the rate has increased only in line with inflation. That pattern continues to extend across Scotland, creating a really mixed pattern of care charges.

The Convener: I suppose that the philosophical problem here is about deciding between taking a very centralised approach to local government in which the Scottish Government lays down a diktat, if you like, from Edinburgh for every local authority to follow, and giving local authorities a bit more autonomy to carry out their own decision making. Those things are very difficult to work out. What is your view on that dilemma?

Ian Hood: This is a real problem, and it is a dilemma that needs to be managed. In 2002, the Scottish Government gave local authorities clear instructions on sorting out the problem of

inconsistency in care charging. The councils had to sort out three areas: disability-related expenditure; the different tax rate, which is the taper rate that has been mentioned; and the amount of money that people get to keep.

In the 12 years since then, COSLA has not been able to move at all closer to achieving any consistency in this matter. That is because every reform that anyone suggests—I and some of my colleagues have worked with COSLA on the issue—benefits only some councils and costs others money. Every council is willing to accept reform that does not cost it anything and costs somebody else something instead. The real problem is that COSLA does not have the authority to tell everybody what to do. It has to negotiate on many different things, and that is the key reason why it has not managed to deliver consistency.

It might be a good thing to allow local authorities to make their own decisions, but in this case the question must be: why do neighbouring local authorities differ so much? North Lanarkshire Council and East Ayrshire Council might be neighbouring local authorities, but if you are under 65, you get £50 more a week to live on in one than you get in the other. It is not because there is a difference in the way that people live.

Jackson Carlaw: Thank you for this important and quite excellently presented petition, which has a clear issue of concern at its heart. I have noted your comments about the variable charges, and I would like to run a few questions together on that issue.

First, you said that the Scottish Government had asked COSLA to harmonise the system a long time ago. To your knowledge, what action has the Scottish Government taken, given that nothing further has been done on the matter? Moreover, is the situation a direct consequence of a permanent council tax freeze? That measure might have been sustainable for a period of time, but councils now seem to be left with no option but to seek to raise charges, whatever their variable nature, from various groups. That is now compounding the effect on families, and charging for care services is an area where we now see that not everything is a bed of roses as a result of the council tax freeze.

Finally, I imagine that at one time the level at which charging cuts in bore some relation to the threshold for income tax, which has now significantly increased. The threshold is now way beyond £6,000, or even £8,000; it is now £10,000, and it is set to rise further. Given that the income tax threshold is now much higher, it seems to be a clear injustice that charges are being levelled on people with an income that is substantially less than the level at which we would deem it appropriate to charge income tax.

Ian Hood: We are a little bit disappointed with the action that the Scottish Government has taken. It is aware of the problem, and we recently met the Cabinet Secretary for Health and Wellbeing, Alex Neil, who is going to refer the issue to a working group on non-residential care. However, over the past 12 years, the Scottish Government has had a lot of priorities, and this one has really not been focused on. A lot of supportive MSPs have asked questions, and the response that we get back is that the COSLA working group is looking at the matter.

You will have seen all that in the briefing for today's committee meeting. We have been told, for example, that a new initiative on financial assessment forms will deliver a whole big change. Well, I have with me a financial assessment form from East Ayrshire Council. It is a sheet of A4 that simply totes up the money that people have to pay. The idea that simply having a standard sheet for toting up the money is going to make a big difference to people shows that COSLA is managing this situation with difficulty.

The point about the council tax freeze is important. I am sure that it has had an effect. We are not in a position to assess what that effect has been, but what has undoubtedly happened over the past four years of the council tax freeze is that councils have been forced into what they call income maximisation. They now have departments and officials whose job is to go round the council and say, "How can we get some more money in? How can we bring in extra money to help us?" Those officials see care charges as an income source instead of something that affects individuals who need care and support. The two issues have merged to help create the current situation. I am afraid that, even if the council tax freeze ended, it would not be the end of the story, because income maximisation remains an important drive for local authorities that have to find ways of increasing their income.

Finally, I could not agree more with Jackson Carlaw's point about the income tax threshold. The coalition Government made an important change for people by raising the income tax threshold to £10,000. However, although that should mean that everybody knows and understands that they will get at least £200 or thereabouts per week without having to pay any of it out, the fact is that if you are under 65 and have a disability, you get only £122. Surely something is wrong when the most disabled people in our society are getting a worse deal than even the poorest paid.

Jackson Carlaw: Thank you. That answers my questions.

John Wilson: The petition calls on the Scottish Government

“to abolish all local authority charges for non residential care services”.

We have heard about the disparity in local authorities’ charging regimes, but, for clarification, are you seeking total abolition of charges or some uniformity in local authority charging regimes? It would be useful for us to know whether your bottom line is for the Scottish Government to abolish all care charges. After all, if it did so, the issue that Mr Hood has just mentioned would arise. Given their financial situation, local authorities will argue that somebody has to pay for the services and that, if the Scottish Government were to abolish the charges, they would need to fund them. Alternatively, is there a compromise position of saying that there should be charging regimes but making it clear that they should be fair and consistent throughout Scotland?

Ian Hood: One of the problems is that, if the Scottish Government tried to reform the system, local authorities could continue to—in a sense—game the system to maximise their income. The Scottish Government would take on the responsibility for care charges, but it would also take on the blame when they continued to go up, because it had not solved the problem. If local authorities cannot satisfactorily reform the system, we cannot see how the Scottish Government can reform it adequately to deliver fairness across the fold. That is why we believe that abolition is the only way forward.

My colleague Dr Nolan has some comments about the human rights aspect. We believe that there has been a serious breach here, and her comments will help you understand why we believe that charges should be abolished.

Dr Pauline Nolan (Inclusion Scotland): All the rights protected by the Equality Act 2010, the European convention on human rights, the Human Rights Act 1998 and subsequent human rights conventions that the Government has signed up to belong to disabled people. For example, article 19 of the United Nations Convention on the Rights of Persons with Disabilities states that disabled people have a right to live in the community with the support that they need and to make choices like other people.

We believe that care charges breach the UNCRPD, the Equality Act 2010 and the Human Rights Act 1998 and directly contravene the European Union directive on freedom of movement. I could go on to list the rights. Is it okay to do that now?

The Convener: Yes—or if the list is lengthy, you might like to give us a note of them.

Dr Nolan: I will give you a note, but you can also ask me questions about any of them.

The Convener: Thank you for that. Do any other members wish to come in?

Chic Brodie: I will be brief, convener, as we have only a couple of minutes until the meeting is suspended.

The briefing that we have received refers to news articles highlighting that some councils might be charging terminally ill people under 65. Leaving the charging issue aside for a moment, are you, in relation to the discussion with COSLA, happy that the definitions in the categories of disablement are broadly consistent, or do they vary greatly?

Ian Hood: There are real challenges, and the treatment of terminally ill people highlights part of the problem. There was a serious debate between the health minister and the local authority concerned to try to resolve this problem. It comes down to the way in which local authorities treat the whole issue of care charges. It is very much managed as a financial issue rather than as—

Chic Brodie: I understand that. I am sorry to interrupt, but I am focusing on the first part of the equation, if you like, that we are trying to resolve, which relates to getting COSLA to achieve consistency. Is the interpretation of disablement consistent? We now know that action is going to be taken on the terminally ill, but has there been any rationalisation of the degrees of disability and what have you?

Ian Hood: I do not think that that is a particular problem or as much of an issue. Councils have quite a clear understanding of who they apply the charges to. What is more difficult for many people is whether they get a care service in the first place.

One of our concerns is that, if care charging is abolished, councils might worry that more people will come and get services, which might push people out the door. That would be a real problem. [*Interruption.*]

The Convener: As you have heard, we have to suspend the meeting. As I promised earlier, I invite our witnesses and Jackie Baillie to come back after the service of remembrance, at approximately 10 past 11. I invite people in the gallery who wish to attend the service to liaise with security staff, who will direct them to the garden lobby.

10:45

Meeting suspended.

11:12

On resuming—

The Convener: We continue our meeting. We started to discuss the second new petition,

PE1533, before the remembrance service. Chic Brodie, the floor was yours.

Chic Brodie: The question I asked was whether COSLA exercised any consistency to ensure parity, or at least had a consistent view. To your knowledge, has any discussion taken place with the Scottish Government on that? Has it liaised with COSLA to ensure a consistent approach?

Ian Hood: Yes. The Scottish Government has representatives who sit on the COSLA working group and there is a flow of information backwards, but we still have the same pattern.

Jeff Adamson gave examples of how his own care varies. There is a series of variations. For example, the taper rate that applies will vary from 100 per cent in half a dozen local authorities down to just 15 per cent in the Orkney Islands. There is a huge variation in what people are expected to pay depending on where they stay. The intervention of the Scottish Government in the working group has not really helped.

Chic Brodie: Where is the working group at? Are its deliberations coming to fruition?

Ian Hood: I and a number of others had sat on the working group since its formation. We had been on it all that time, but some of us walked out earlier this year because, although we had spent time on it, it was not delivering change. We believed that a different approach was needed, which the working group could not deliver. That is why we and 29 other voluntary organisations across Scotland have launched the petition and why it has more than 2,500 signatures. We think that there needs to be a different way of resolving the problem.

Chic Brodie: Are you telling me that the working group has no outcomes or timescales? If it is not there to serve a purpose—to produce meaningful outcomes—why is it there?

Jeff Adamson: I have been asking about occupational pensions, which some local authorities regard as earned income. That attracts a £20 disregard—I am allowed £20 extra on my personal allowance. Some local authorities, including my local authority, do not regard it as income. However, the Department for Work and Pensions and HM Revenue and Customs consider an occupational pension to be income. I have asked about that for the past two or three years, and the only answer I get is that COSLA is looking into it.

11:15

The Convener: Dr Nolan, you talked about legalities earlier—you are going to give us a note of them. Under those pieces of legislation, have there been any legal challenges in the courts?

Dr Nolan: There are no legal challenges currently, but we are likely to look at a legal challenge regarding people being able to reclaim the money that they have spent on care charges.

A lot of rights are affected, such as the right to live independently, the right to be included in the community, the right to personal mobility and the right to employment and an adequate standard of living. People probably do not know the root cause of their poverty, because they are being hit by so many different cuts and so many welfare reforms. As we know, disabled people are disproportionately affected by the cuts. The charges coming along at the same time are pushing people into poverty. That is the biggest concern.

We hope that there will be a test case.

The Convener: What will the timescale be for the test case?

Ian Hood: We have been doing some pre-work with a lawyer called Tony Kelly, who was involved in a human rights case about prisoners and slopping out, which went to the European Court of Human Rights. Previous experience tells us that such cases are not a quick solution, so for us it is a last resort. We would much rather resolve the problem amicably and sort it out now, rather than come back and say, "It's not the councils that you have to compensate for the ending of care charges; it is the people who have paid them illegally."

We would rather that the problem was sorted out now, properly, before it gets worse. We are told that, as part of their budget plans this year, City of Edinburgh Council proposes to take another £1 million from disabled people and West Lothian Council proposes to take £750,000, and we expect other councils to follow suit. The longer it takes to act, the more it will cost to resolve the problem.

The Convener: We know from other petitioners that it is also a very expensive route. I understand that you may be getting some pro bono work, but nevertheless it is an expensive, tortuous route. However, it is useful to have that information on record.

I will bring in Jackie Baillie, who has been very patient. Thank you for coming to the committee; I know that you have been very supportive of the petition.

Jackie Baillie: Thank you. Patience is one of my well-known traits, convener.

Chic Brodie: Said without a blush.

Jackie Baillie: Jackson Carlaw raised his eyebrows—I am disappointed.

It strikes me that we spend a lot of time in the Parliament talking about prevention and taking action before people end up in crisis, and we all agree that sustaining people in their homes is absolutely the best option, yet we are doing exactly the opposite. I know of constituents who are cancelling vital services—personal alarm systems for example—because they feel that they cannot afford them. That is a backward step.

Chic Brodie asked about the COSLA and Scottish Government working group. The group is probably part of a circular process and is designed to be referred to when difficult MSPs or others in the voluntary sector raise the question of consistency of charging, or of charging at all. I certainly believe in a much more simplistic form: if you do not charge, there are no issues of consistency to worry about.

I know, through an FOI request submitted by the Learning Disability Alliance Scotland, that one service for a person with learning disabilities was £30 a week in West Dunbartonshire but 10 times that amount—£300 a week—in neighbouring Argyll and Bute. If we are honest about it, Scotland is far too small to have those wide differentials in charging.

However, it is not just a matter of charging; there is an issue with the differences in the criteria on which people are assessed. Again, those differences happen in neighbouring local authorities. I am sad to say that I have now experienced care tourism, where people with a condition make very clear choices about where they live, depending on how good local authorities are in meeting their needs. That should not have to happen.

We have seen the bureaucratic responses, with the financial assessment papers and all of that, but there has been no change to people's experience on the ground.

There is a real opportunity here for the Government and for the Parliament. We are on the verge of health and social care integration, in which we are bringing two systems together. If you are dealt with by the health service, you turn up, it treats you, your treatment is free at the point of need and there is no assessment of any charging whatsoever. We are going to integrate that system with a system that assesses your needs, decides what the priorities are and then applies a charge. We have an opportunity at this point in time to create a change.

I hope that the committee agrees that although £50 million is a lot of money to the ordinary man and woman in the street—and to us—it is a very small amount in the context of the overall Government budget. I hope that the committee will

refer the petition to the Scottish Government with a degree of urgency.

I hope that the committee might also consider consulting other people. For example, is there any way that we could seek an opinion—from Government lawyers or indeed from the Equality and Human Rights Commission—on whether there are breaches of human rights? There are people in the field—from the Child Poverty Action Group and the Poverty Alliance—who can talk about care charging and its impact on disabled people living in poverty. There is research here from the group itself about the cost of abolishing care charges; I do not know whether that is something that the Scottish Parliament information centre might be invited to do a detailed paper on for the committee. All those things would be very helpful to advancing the petition.

The Convener: Thank you. I am very conscious of time. Do any members who have not spoken have any urgent points that they wish to raise at this stage?

John Wilson: I have a question for Mr Hood. You talked about the COSLA working group. Can I ask who convenes that group? You said that the intervention of the Scottish Government was not helpful to the situation. Can I just get clarification on who co-ordinates the COSLA working group?

Ian Hood: I am afraid that I may have misspoken in saying that the intervention was not helpful. I meant that it had not led to any significant change. That may be the same thing, but it was not that the Scottish Government was being obstructive; I was not trying to position blame on the Scottish Government.

The COSLA working group is convened by the COSLA policy officers, some of whom will be known to the committee—Ron Culley and Garrick Smyth. The group does not meet frequently. On it, there can be a representative from each local authority and some representatives from the voluntary sector. Currently there are only two voluntary sector representatives—one from Age Scotland and one from Alzheimer Scotland. The rest have left, including me. There are a couple of officials from the Scottish Government older people's section who go along to take part. It is a process of debate and discussion.

The problem is that the group has not started to meet to discuss next year's policy guidance but—as I am sure you have been reading in the papers—the councils in East Renfrewshire, Inverclyde and Edinburgh have all started to set their budgets and make their plans. Therefore, any extra spending that this committee comes up with will not be available before 2016 or 2017 at the earliest—it may possibly take longer than that, as we have seen from the difficulties.

The Convener: Thank you. Do witnesses have any further contributions that they would like to make?

Ian Hood: We would like to say one other thing. There is a serious issue to do with people turning down services or reducing the amount of services that they take because of care charges. There is evidence of that happening—for example, some councils such as Fife Council have reported that it happens, and the Audit Commission has recognised that it takes place.

We have written a paper that looks at the issue. In the context of the debate about health and social care integration, when simple things such as community alarms are being turned down by up to 10 per cent of those who are charged for them, that means not only that those people do not have access to community alarms to help them when they fall but that, because they are no longer part of the social work system, they lose access to things such as fall clinics, which teach them how not to fall.

A request could be made to the national health service, asking what effect social care charges have on both bed blocking and access to preventative services and emergency admission into the healthcare system. We think that the NHS could play a useful part in helping us to understand the consequences of local authority actions on the NHS further down the line.

The Convener: Thank you. We have finished our questions, so we now come to the stage of decision making.

I am sure that my committee colleagues agree that this is a very important petition. We will want to get the view of the Scottish Government, and there is a role for both health and local government ministers. I would be particularly interested in getting the relevant cabinet secretary along to speak to us. We can perhaps cover Jackie Baillie's point by determining with the relevant cabinet secretary whether they are satisfied with the current legal position. It would be interesting to get the Scottish Government's legal view on whether the charges are compliant with various pieces of European legislation—that would address Dr Nolan's point.

We should also get the views of NHS Scotland and COSLA. I assume that my colleagues will have other suggestions.

Chic Brodie: I would like to write to the COSLA working group, if the exercise is as circular as Jackie Baillie says. As she knows, I am in favour of decentralising government to local authorities, but the issue is broader than just the charging. I am aware of a circumstance in South Ayrshire in which we are not getting best value because of competitive tendering and the lowering of charges.

What is driving continuity of care—which is important for dementia sufferers, for example—is being lost in the whole charging mechanism, and I am not sure that we are getting efficiency or best value. I would like to encourage the COSLA working group to come up with what its outcomes are going to be and when it is going to achieve them.

The Convener: I presume that we could incorporate that in any letter to the Scottish Government as well as our letter to COSLA.

John Wilson: I echo Jackie Baillie's suggestion that we invite the EHRC to give its views on the charging. The witnesses questioned whether the situation is in line with European guidance.

I also suggest that, when we write to COSLA, particularly the working group, we find out what the estimated total cost would be of covering the care charges in Scotland. Ms Baillie spoke about £50 million being an insignificant amount of money in the context of the Scottish Government's overall budget, but I would like to get clarification from the working group of the total amount that is collected by local authorities or the perception of what would be collected in the coming years through the current care charges. I would like to get clarification of the cost of covering the delivery of the services in question.

As well as writing to COSLA, I think that it would be appropriate to write to a couple of local authorities. The witnesses have mentioned several local authorities in relation to the charges that are made, and it might be useful for us to go through the list that has been produced by Mr Hood, picking out a couple of the highest and lowest charging authorities and asking them to justify the charging regimes that are in place so that we get a better understanding of why the charges are high in one local authority and a lot lower in another local authority. We might not get that detail from the COSLA working group.

The Convener: I agree with that. Jackie Baillie mentioned Argyll and Bute Council, and Mr Hood mentioned Moray Council. I think that it might be useful to approach those local authorities, not just because they are in my region but because I am interested in the high charges.

David Torrance: I am happy to go along with the recommendations.

11:30

Anne McTaggart: It concerns me somewhat that we are now 12 years into the process and nothing seems to be showing. Nothing amicable has been delivered. There is also a concern that not all local authorities are in COSLA. Should we write to the local authorities that are not part of it?

What proportion of that £50 million would go to the NHS? Can we ask for views on that?

Angus MacDonald: I ask that we write to Falkirk Council, because I think that Mr Adamson mentioned that there is a difference of over £500 between the figures in Midlothian and the figures in Falkirk. Therefore, it would be good to add it to the list.

Jackson Carlaw: In the letter that we send to the Scottish Government, can we draw a distinction between deferring the charging system to COSLA and abdicating all further responsibility for seeking to motivate it towards some sort of a conclusion? Rather than just being told that the committee exists, which might happen, I would like to know what the Scottish Government's view is on the lack of progress and what consideration it has given to achieving some progress. It could always decide that it needed to take a slightly more direct, interventionist view on what it deferred to drive the group to a conclusion. I would be interested to know why it has chosen not to do that and how long it thinks that not doing so would be acceptable.

The Convener: Thank you for that.

The initial suggestion was not just that we should write to the Scottish Government but that we should invite in the relevant cabinet secretary. Obviously, there is a balance between health and local government, but it looks like health is the main driver, so Alex Neil would be the relevant minister. Are committee members happy that we invite Mr Neil to give evidence to the committee at a future meeting?

John Wilson: Can we seek clarification from the Scottish Government on who it thinks is the best person to represent its view on the matter? Local government budgets are in a different portfolio from health budgets. If we were to take on Jackie Baillie's and the petitioner's suggestion on abolishing care charges, we would need to be clear about what budget the majority of that funding would come from. There is no point in getting the Cabinet Secretary for Health and Wellbeing and the Cabinet Secretary for Finance, Employment and Sustainable Growth battling the matter between each other and saying, "We're not responsible for this element." We need clarification.

The Convener: That is a reasonable point. We will ask the clerk to liaise with Scottish Government officials to get the appropriate cabinet secretary. That is fairly easy to sort out.

Chic Brodie: It might be worth while getting the convener of the working group along, as well.

The Convener: Yes. That is a very good point.

To give a steer to the clerk on local authorities, I think that higher-cost local authorities were mentioned, which were Moray Council, Argyll and Bute Council and Falkirk Council. Are members happy that we write to those three authorities?

Members indicated agreement.

The Convener: John Wilson also made points about the EHRC, which is really important.

Anne McTaggart: We should also remind ourselves that Jackie Baillie made the point that we are at a crossroads with our new system coming into place, and there is an ideal opportunity for us to review that.

The Convener: I think that all the recommendations have been summarised.

I thank our three witnesses—Mr Adamson, Mr Hood and Dr Nolan—for giving evidence, which was very helpful. I also thank Jackie Baillie for coming to the meeting and for her appropriate comments, which were also very helpful to the committee's deliberations. We will take the issue away and we will have it on a future agenda. The clerks will keep the witnesses up to date when that is scheduled. Obviously, they are welcome to be in the public gallery, and we can liaise with them on the timings.

I suspend the meeting for two minutes to allow our witnesses to swap round.

11:34

Meeting suspended.

11:35

On resuming—

Planning (Rights of Appeal) (PE1534)

The Convener: The third new petition today is PE1534, by Clare Symonds, on behalf of Planning Democracy, on equal rights of appeal in the planning system. Members have a note by the clerk, a SPICe briefing and the petition.

I welcome to the meeting the petitioner, Clare Symonds, who is chair of Planning Democracy, and Helen McDade, who is a committee member in the organisation.

For the record, I should say that I have dealt with Helen McDade regarding various other petitions over the past few years.

I invite Ms Symonds to speak to the petition for a maximum of five minutes. I will then kick off with some questions, and after that I will invite my fellow committee members to speak.

Clare Symonds (Planning Democracy): Planning Democracy is an organisation that advocates on behalf of the hundreds of communities that we have heard from in the course of our research, case studies, seminars and conference and of the people who have contacted us or who have been passed on to us from other organisations. We represent a voice that is seldom heard in discourses on planning issues: the voice of citizens whose lives have been affected by planning decisions or who have sought to engage in the planning system.

We are calling for equality in planning. We believe that there is a moral imperative to grant an equal right of appeal to communities and individuals who act in the public interest. We question in what other aspect of life there is such inequality, where one stakeholder has rights whereas another does not. The current system is prejudiced against the citizens of Scotland whose lives are impacted by planning decisions. In what democratic world is that justifiable?

Why are we asking for equal rights now? The passing of the Planning etc (Scotland) Act 2006 was hailed by the Scottish Government as strengthening opportunities for democratic engagement in the planning system. However, an equal right of appeal was not granted to communities.

Delay was cited as a major concern about giving equal rights, while ministers claimed that there were plenty of opportunities for communities to be involved at earlier stages in the planning process through the front loading of community involvement.

However, eight years after the major rehaul of the planning system, our research shows that the new system is not working for Scottish citizens. People do not feel listened to when it comes to key development decisions. The promises of better participation are not working in practice. The lack of an equal right of appeal is seen by communities as one of the most unpopular and unjust aspects of the current planning system.

Exhausted, isolated, anguished, traumatised, frustrated, baffled, depressed, rejected, raw and wounded are words that have been used by ordinary people to describe their experience of democratic planning in Scotland. Those words are shockingly emotive, and they seem to describe better the feelings of someone who has been exposed to civil war or extreme ill health than those of responsible citizens taking part in one of society's democratic opportunities, yet the use of such emotive terms is not unusual. We have spoken to many individuals who describe their feelings in such a way.

We know that there is a lot of dissatisfaction—we have our own evidence of it—but is anyone interested in hearing the voice of Scottish citizens? Certainly, we have found no evidence of Government reports or reviews asking those stakeholders how the planning reforms are working. There is very little information documenting the citizen's side of the story. We ask for a thorough review of the planning reforms from the public perspective.

Government and professional organisations tend to stress the problems of equal rights of appeal, rather than seeking a type of system that could work and which could address the clear public desire for some form of equal rights.

We emphasise that the issue is not a dichotomy, with a choice between having an equal right of appeal and having no equal right of appeal, because there is a wide range of possibilities in between.

Debate in the planning system seems to be entirely focused on the agenda that is set by developers—for example, on speed and efficiency—rather than on the quality or outcomes of decision making.

We have been advised that the appeal system in Ireland, where they have what is called a third-party right of appeal, has enhanced the Irish planning system. There is clear evidence that ERA has not detrimentally impacted the economy there and there are no border effects on Northern Ireland, which would show that developers would build elsewhere to avoid TPRA. The Irish economy was absolutely booming in early 2000 with TPRA as a key element of the planning system. We have seen evidence of improved decision making, with weak proposals being strengthened and enhanced through the appeal system.

Following the property crash in 2008, there were a number of far-reaching reviews of and inquiries into the Irish system. They have pointed to the failure of overall regulation of zoning and so on, but none has suggested that the system of TPRA should be reformed. TPRA has come out of the failures of the system with its integrity intact.

The Convener: Sorry to interrupt, but we are over the five-minute limit. Are you just about to finish?

Clare Symonds: I have one final sentence.

I finish with the words of John MacBryde, a consultant planning inspector with the Irish board that oversees planning appeals. He said:

“my Irish casework included a fair number of third party appeals. They were all of some planning cogency and merit and none were of the frivolous, vexatious or venal nature often characterised by opponents of the system in the UK

... I look forward to the time when a political party in Great Britain takes a leaf out of Ireland's book."

Planning Democracy hopes that Scotland will be the first to follow in Ireland's footsteps.

The Convener: I have a couple of questions before I open up the session to my colleagues.

Supporters of the third-party right of appeal have argued that, in Scotland, there is a gap in that we are currently breaching the Aarhus convention and the European convention on human rights. What is your argument in respect of that viewpoint?

Helen McDade (Planning Democracy): There is evidence that Scotland is unlikely to be Aarhus compliant. Several complaints have been made to the Aarhus compliance committee. We are not experts on that area, but I understand that some of them were upheld. Certainly, the trust that I work for is about to submit a complaint to that committee on our planning system. It is not specifically about the third-party right of appeal, although it would probably have resolved the problem at an earlier stage. There is no doubt that many of the groups that have been involved in disputes on planning are taking forward complaints.

The Convener: A previous petition concerned a series of minor developments that suddenly became a major development. Is that something that concerns you in the planning process?

Clare Symonds: Yes, we have case studies on that. For example, in Canonbie, in Dumfries and Galloway, about 20 small applications were submitted for the exploration and development of coalbed methane. They were divided up into small batches but we think that, taken cumulatively, they represent a major development. We believe that there are a number of such cases. Of course, we believe that an equal right of appeal would be suitable in those situations.

The Convener: Finally, to give some balance to my comments, you will know that the Confederation of British Industry and the chambers of Scotland have said that they think that a third-party right of appeal would undermine economic investment in Scotland. What is your view on that?

Clare Symonds: The evidence from Ireland is that it did not have that effect on the economy. We have spoken to a number of people in Ireland about the issue, including Geraint Ellis, from Queen's University in Belfast, who assures us that there has been no impact on the economy.

Helen McDade: It is often said that objections or challenges to planning decisions are what hold up major developments. However, often, on examination, one finds out that there are other

major issues around delays to a given development, such as finance, or, indeed, one finds that there is no evidence that the development is being held up.

In a way, that is almost an argument for equal rights of appeal. Judicial review is long, complex and expensive but people only have that option at the moment, although they do take it.

We could take the position that nobody should have a right of appeal in order to equalise the playing field. That would really speed up the planning system, but whether it would get us the right results is a different matter.

11:45

The Convener: Thank you for that. I just confirm for the record that I meant to refer earlier, of course, to the Scottish Chambers of Commerce and not the chambers of Scotland.

Chic Brodie: Good morning. Last week, we had the business in the Parliament conference here. In fact, I chaired a session in this very room about business in communities, and the issue of planning came up. I am afraid that business people disavow your views on an equal right of appeal—and I know something of Ireland as well, having done business there—and believe that anything, including an equal right of appeal, that prolongs the planning process will impact on economic development. They gave examples of planning processes that set businesses against businesses, with one business complaining about another business, which undermines competitive investment. I am not saying that the whole process should focus on business, but there are facilities in the planning process for objections, for example through the environmental impact assessments that must be done, as we have seen in cases that we have discussed previously.

I do not think that Ireland is a good example. I wonder how much discussion you have had with the likes of local and rural businesses about what you are proposing.

Helen McDade: Planning Democracy does not have the resources that the Government has to do the research that is necessary. We would really welcome detailed research on the issue.

To take your specific example about businesses against businesses, of course they can do that because they have the resources to take their case to judicial review. What we see is that those who do not have the resources to do that are local communities and, often, non-governmental organisations. So, the system already allows for judicial reviews, and a lot are on-going at the moment, mainly—

Chic Brodie: How many?

Helen McDade: I do not know, but—

Chic Brodie: You will find that there are a handful, in terms of businesses against businesses.

Helen McDade: That is not my understanding but I will certainly come back to you on that and submit information. However, we would really welcome figures from the Scottish Chambers of Commerce or the Royal Town Planning Institute if they have done detailed research on the issue of judicial reviews in planning processes. I could mention many major planning cases that are under judicial review at the moment and have been held up for two or three years. At the moment, local people have no right to say anything after an initial written objection until going to judicial review. If we had equal rights of appeal, those cases would be over—the businesses might have won and the developments might have been completed by now.

Angus MacDonald: In 2006, I was serving on the local planning committee in my local authority. I admit that when third-party right of appeal was removed, I certainly had concerns, as did the whole council group.

I am sure that we are all keen to see improvements in the way that applicants, local communities, the wider public and planning authorities engage in the existing planning system. The Government has tried to streamline development planning processes and appeal proceedings, but I would argue that those actions are based on the assumption that local authorities or local planning committees are following their local development plans. Unfortunately, that is not always the case. Do you agree that local failures or perceptions of local failures in the planning system require a third-party right of appeal to ensure proper balance in the planning system?

Clare Symonds: Yes, I agree heartily. The planning system has two aspects: there is efficiency; but the planning reforms were also about improving public engagement in planning.

If the public do not have some certainty that applications will be compliant with the local development plan, what incentive is there for them to get engaged in the early part of the process? We have case studies of people from communities affected by landfill and coal mining who have had to engage with the planning system and have done really well—so much so that the Scottish Government cited them as an example. They put in months and months of work and worked very closely with local development planning teams to get their areas designated as rural investment areas in the Glasgow and Clyde valley structure plan and local development plans, only to find out after the structure plan was published that a

developer circumnavigated it entirely and submitted an application for an incinerator. That was totally contrary to the structure plan, but it was given permission. How do those people feel about where all their hard work got them?

When we talk about having a plan-led system and public engagement, we must acknowledge that a third-party right of appeal or an equal right of appeal can really enhance the front loading of engagement at the earlier stages.

John Wilson: Good morning. A right of appeal in planning decisions currently exists; it is to the courts. In your experience, what is the average cost of taking an appeal to the courts?

Helen McDade: I do not want to be too exact, because I do not know whether that is something that we want to put out in the public domain. However, the John Muir Trust, which I work for, is currently engaged in that process. We have not even got to the first court hearing and our spending is well into six figures. The legal and planning professions and politicians totally underestimate what it costs to take an appeal to the courts.

We might not have to spend all that money, because if we win the case we can get costs from the other side. However, you do not know that until you get there. To go back to Chic Brodie's point about environmental impact assessments, sadly I cannot think of many successful cases that such organisations have taken forward on the basis of the public interest in the environment. Our chances are already not very even.

We need money to go forward and the costs are incredibly underestimated: that is one of the major points. We are a medium-sized organisation. When local groups do this, it is phenomenal that they manage to raise the money locally to make appeals through the legal system.

The process is frightening. I was in court a few weeks ago, watching the process start. I was doing it for work; I have a lot of experience of those sorts of confrontational situations, which are very unpleasant. Public local inquiry has its deficiencies, but it is vastly better than judicial review.

John Wilson: My understanding is that the average cost for someone to appeal to the courts is roughly £50,000. In one of the areas that I represent, fortunately a community group got the local authority to support it and fund its court action. Within 3 miles of where I live, we have also had exactly the type of scenario that Ms Symonds described. A developer bypassed the local plan and the strategic plan and submitted an application to build 540 houses, which was approved.

The issue is not just about appeals. How do we build confidence in the planning and engagement processes so that communities believe that their views are valued? Is the issue just about a third-party right of appeal or does something in the current legislation prohibit communities' full engagement in the planning process?

Clare Symonds: One of the things that we lack is evidence, and we would ask the Government to ask people who have used the planning system how they feel about it, and get their help to identify the problems.

Something that is not measured—Audit Scotland said this in its report a couple of years ago—is qualitative factors. We should look at the qualitative as well as the quantitative, because a lot of what is measured is whether something was advertised or whether a public meeting was held, which does not tell us whether views were listened to or whether they influenced development plans. That is one aspect.

John Wilson: We heard mention of the section 75 restrictions that might be applied and we have heard about the environmental impact assessments that must be carried out. In your evidence, is there any indication of the number of objections that are made after a planning decision, regarding section 75 conditions not being adhered to or environmental impact assessments not being fully carried out before the developer goes ahead?

There is an issue about ensuring that all the processes are in place. On many occasions at local level, section 75 conditions are completely ignored by developers, who are sanctioned to go ahead by local planning departments.

Clare Symonds: I am not so sure about section 75 conditions, but certainly we know about conditions on planning applications, which are, after all, what makes a planning application acceptable to a community. When we first started out with our research, lack of enforcement came up very strongly, particularly in mining communities and communities whose voices are not heard as vocally as the voices on some high-profile decisions, for example the one on Craighouse. People living in quite deprived areas find that their lives have been made quite intolerable by the lack of enforcement of conditions, which leads to anything from blasting going on at the bottom of their garden at 6 o'clock in the morning to hundreds of lorries going past their house. Enforcement is a big issue.

The Convener: We are short of time, so can we have very short questions and answers, please?

Jackson Carlaw: Can you help me with a deficiency in my knowledge? Who are Planning Democracy? How are you constituted, how are you funded and whom do you formally represent?

Clare Symonds: We are a charity that has been going for five years. As I said, we represent the voice of the people. The number of people who come to us is going into the hundreds and thousands. They come to us through email, our contacts and other organisations. We are part of Scottish Environment LINK, for example. Those are the voices.

We are not a membership organisation. We have no staff and we are entirely voluntary. That is probably all that there is to say about us.

Jackson Carlaw: How are you funded?

Clare Symonds: We have no funding.

Helen McDade: We have a couple of small grants for a conference. That is about it. The organisation is almost entirely voluntary.

The Convener: I am afraid that we are out of time. As the petitioners will know from experience, when we finish with questions, we go to summation. Please give us a few minutes.

We are looking at next steps. This is an important petition on which to ask the Scottish Government for its views, so I suggest that we write to the Scottish Government, Planning Aid for Scotland and the RTPI to get their views on the petition. I ask members for their views on the next steps.

Chic Brodie: We should consider writing to heads of planning in local authorities to get their views on how the petition's proposal might be implemented and whether it should be implemented.

John Wilson: I suggest that we write to Homes for Scotland, which is the trade body for many housing developers in Scotland, to get its views on how the right of appeal would sit in the current process.

I would normally suggest writing to the John Muir Trust but, as Helen McDade is here, there is no point in doing that.

I suggest that we write to ask the Scottish Wildlife Trust for its views, as it has been involved in some issues. I declare my membership of the trust.

We should try to get a balance of experience from environmental organisations, aside from Planning Democracy. It is also important to hear from Homes for Scotland.

12:00

David Torrance: I go along with those recommendations.

Anne McTaggart: I am for continuing the petition and writing to some of the organisations

that have been listed: the Scottish Government, the Royal Town Planning Institute, Planning Aid for Scotland and Heads of Planning Scotland.

Angus MacDonald: I am content with what has been suggested.

Jackson Carlaw: I am content at this stage.

The Convener: As you have heard, Ms McDade and Ms Symonds, we will actively pursue your petition, and it will be scheduled for discussion at a future meeting. The clerks will let you know when that is. If you wish to come along to the public gallery, that is perfectly possible. I thank you for coming along and for the evidence that you have given, which has been helpful. Thank you very much for your time and attention.

Armed Police (PE1532)

The Convener: The fourth and final new petition is PE1532, by Garry Stagg, on stopping the public bearing of arms by the police. Members have a note by the clerk, the SPICe briefing, the petition and a submission from the petitioner.

The petitioner has indicated that he no longer wishes to proceed with the petition. On that basis, I move that we agree that the petition now be closed. Is that agreed?

Members indicated agreement.

John Wilson: I wish to clarify that, once a petition has been lodged, it becomes the property of the committee, not the petitioner. We should acknowledge that, even though the petitioner has asked for the petition to be withdrawn and the committee is happy to do that, the formal process is for the petition, once lodged, to become the committee's property.

The Convener: Yes—thank you.

Current Petitions

School Bus Safety (PE1098 and PE1223)

12:01

The Convener: We move to agenda item 2, which is the consideration of nine current petitions. We will take together the first two petitions: PE1098, by Lynn Merrifield on behalf of Kingseat community council, and PE1223, by Ron Beaty, which are both on school bus safety. I note that Mr Beaty is once again sitting in the public gallery, and I thank him for all his efforts on his petition over the years.

Members have a note by the clerk. Stewart Stevenson has had a long-standing interest in petition PE1223, but he is unable to be here today. Nevertheless, we note his interest.

On the options for each petition, the committee may wish to defer further consideration of PE1098 to early 2015 and seek at that time an update from the Scottish Government on progress with the devolution of powers relating to seat-belt provision. Is that agreeable?

Chic Brodie: It is agreeable, but I say what I said two weeks ago about speeding up the whole process. I will be 125 by the time this is dealt with—that is next year. We need to get an understanding. The petitioners have spent a lot of time on the matter, and the situation has been going on almost for ever. Perhaps, in our letter, we might impress on Transport Scotland our wish to come to a conclusion.

The Convener: I think that Mr Brodie's frustration is felt by all the committee.

Angus MacDonald: The reason why people are holding back on undertaking a pilot project in a rural local authority area is clearly to do with the financial situation. This is probably not within our remit, but it would do no harm to suggest that Transport Scotland could cover the costs of a pilot, if that is the sticking point.

The Convener: Does the committee agree to write to Transport Scotland in the terms that Angus MacDonald suggests?

Members indicated agreement.

The Convener: As for PE1223, the committee may wish to write again to Transport Scotland about the petitioner's views and to the Association of Transport Co-ordinating Officers to suggest that a rural local authority should take part in a pilot enhanced signage scheme.

John Wilson: I agree that we should write to Transport Scotland again, but I would want to draw its attention to Ron Beaty's letter and

particularly to how he describes the consultation that took place. When the committee recommends that a public agency should engage with petitioners, we mean meaningful engagement, not a meeting in a cafe at which no notes are taken.

Discussing concerns in a public cafe is not adequate. Mr Beaty described how the person he met then went on to a meeting in the council offices. Such a right should have been afforded to the petitioner. Transport Scotland should be made aware that, when we talk about consulting petitioners, we mean meaningful consultation in an appropriate place, with appropriate time and consideration given to their views.

The Convener: Is the committee happy to write to Transport Scotland in those terms?

Members indicated agreement.

The Convener: Does the committee agree with my suggestion on PE1223?

Members indicated agreement.

The Convener: I thank Mr Beaty for his time and commitment. The committee acknowledges all the work that he has done over the years.

Fair Isle Marine Protected Area (PE1431)

The Convener: The next petition is PE1431, by Nick Riddiford, on behalf of the Fair Isle community, on a marine protected area for Fair Isle. Members have a note by the clerk and the submissions.

A possible course of action for the committee is to defer consideration of the petition until early next year and seek at that stage further information from Marine Scotland on the outcome of the assessment of Fair Isle's demonstration and research proposal. Do members agree to that course of action?

Members indicated agreement.

A Sunshine Act for Scotland (PE1493)

The Convener: The next petition is PE1493, by Peter John Gordon, on a sunshine act for Scotland. Members have a note by the clerk and the submissions.

Given the information that the Scottish Government has provided to detail the measures that health boards have put in place and given the concerns that the petitioner highlighted, the committee may wish to write to the Scottish Government to ascertain what action has been taken since the information was gathered to ensure that the guidance in the health department letter—NHS HDL (2003)62—is being complied with fully and consistently by all health boards. Do members agree to that course of action?

Members indicated agreement.

Renaming Glasgow Prestwick Airport (PE1506)

The Convener: The next petition is PE1506, by Alison Tait on behalf of the Robert Burns World Federation Ltd, on renaming Glasgow Prestwick international airport to Robert Burns international airport. Members have a note by the clerk and the submissions. I invite Chic Brodie to make an opening statement.

Chic Brodie: I do not agree with the proposed committee recommendations, largely because of my involvement with Prestwick airport. First, we must drop "Glasgow" from the title—the airport is in Prestwick in Ayrshire. It is interesting that we are being asked to rename the airport as Robert Burns international airport—which we cannot do, apparently—while we sit in a committee room called the Robert Burns room.

I suspect that the committee will want to close the petition given the airport board's imminent announcement. I assure members that the issue will roll on, but I suspect that there is no point in continuing the argument in the committee, although I will continue the argument elsewhere.

The Convener: I understand that you will continue your argument individually.

Chic Brodie: I sure will.

The Convener: Is the committee minded to close the petition in light of the Scottish Government's view or is there an alternative view?

John Wilson: Like Mr Brodie, I am loth to close the petition. The difficulty is that the board's justifications for its decision have not been met. As far as I am aware, it has not tested the market on renaming the airport. We know from the feedback of other airports that have renamed or rebranded themselves that they see those exercises as a major success for their airports' popularity and that they have brought in more carriers.

I wanted to see more evidence from the airport board and the Scottish Government to show us what they have done to test the market not only in Scotland but internationally. We have to retain Prestwick airport as an important hub not only for Scotland but for the United Kingdom.

Anne McTaggart: The committee has done a power of work on the petition, so is there any reason why Mr Brodie thinks that it should be continued?

Chic Brodie: The name Glasgow Prestwick airport was adopted largely because of one carrier, which wanted Beauvais airport to be called Paris airport, although it takes 45 minutes to get from Beauvais to Paris.

Because of my involvement in business opportunities, I spent almost all the weekend at Prestwick airport. I would like the petition to continue. It is instructive that calls were made last week for Edinburgh airport to be called Robert Louis Stevenson airport. The evidence from discussions that I have had with chief executives in Liverpool and Belfast is that, although it is not greatly important, the name has ramifications. The fact that Burns material is produced in 159 countries suggests to me that there is a marketing opportunity. I will say no more.

Angus MacDonald: I take on board what Chic Brodie says, but I reluctantly accept the recommendation to close the petition. It is clear that the Scottish Government will not budge on the issue. I wish Chic Brodie success in his future endeavours.

Jackson Carlaw: Since we previously discussed the petition, we have written again to the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities, Nicola Sturgeon—very soon to be she who must be obeyed—and she replied saying:

“We have considered very carefully the suggestion that the airport be renamed Robert Burns International. On balance we have decided that there are strong commercial reasons to retain the Glasgow Prestwick name but the importance of recognising the rich legacy of Burns is accepted.”

The Government, which now owns the airport, has said that it will not change the name, and the management committee that it has appointed to run the airport has concluded that it will not change the name. I therefore cannot see what the committee believes is yet to be achieved and so, whatever the strength of opinion is that underpins the petition, it is clear that it will proceed no further. On that basis, although individuals will pursue the matter, we could not have stronger or clearer grounds on which to close the petition.

Chic Brodie: I clarify that the management committee has not been involved, because the board has not yet been appointed. Who knows what will happen after that?

The Convener: I am reluctant to open a free-for-all debate on the matter. Members have all discussed it. Mr Carlaw expressed a very strong no, if I picked it up correctly. We all respect the work that Chic Brodie has carried out individually, but I see no option other than to close the petition, particularly in light of Mr Carlaw’s points. All committee members bar one have supported that. Reluctantly, we will close the petition because of the Scottish Government’s position, but we all wish Mr Brodie well in his endeavours.

Polypropylene Mesh Medical Devices (PE1517)

The Convener: The next petition is PE1517, by Elaine Holmes and Olive McIlroy, on behalf of the Scottish mesh survivors hear our voice campaign, on mesh medical devices. Members have a note by the clerk and the submissions.

We all recognise that it has been a first-class petition. A number of supporters are in the public gallery; I welcome them back. I also put on record our thanks to Neil Findlay, who has carried out a strong campaign, and to the *Sunday Mail* for the work that it has carried out.

The suggestion is that we defer consideration of the petition until early 2015 to await the outcome of the independent review that the Scottish Government set up and the opinion that the European Commission requested from the Scientific Committee on Emerging and Newly Identified Health Risks. Before we make a final decision, I want to hear from any committee members who wish to speak.

Chic Brodie: I will speak, despite what some people think about Government back benchers. In reference to paragraphs 12 and 13 of the clerk’s note, I do not remember when the Cabinet Secretary for Health and Wellbeing was at the committee, but the action that had to be taken was made clear. I acknowledge what Mr Findlay has done and I am more than concerned that 29 women have received mesh devices from NHS Greater Glasgow and Clyde since June 2014. I thought that the cabinet secretary’s decision was clear, so I am surprised that the Minister for Public Health said:

“there will be individual circumstances where clinicians, in consultation with the women involved, will consider all the potential risk factors”.—[*Official Report*, 30 October 2014; c 8.]

I would like to understand the basis for that.

The Convener: We could certainly write to the cabinet secretary about that.

12:15

Jackson Carlaw: I echo that. When we took evidence, we were largely assuaged by the cabinet secretary’s assurance that he had instructed that a moratorium be put in place. He explained the limitations on him, but I thought that the response to the question that was put in the chamber was somewhat cavalier in its generality. I think that we had expected something a little more absolute, based on the assurances that had been given to us.

We should acknowledge the public recognition that the petitioners have been given for the work that they have done. I believe that, as a

consequence of what they have done, Westminster's Department of Health has also taken an interest in the issue. As we continue to review the petition, it will be interesting to note what that department's conclusions have been and to consider whether that might affect the position that we adopt and pursue in Scotland.

The Convener: We are still part of the European Union, so it would be useful to get the European Commission's views as well.

Anne McTaggart: Like Chic Brodie, I listened to the cabinet secretary give evidence to the committee, so I am aghast. The saying that the tail is wagging the dog springs to mind. I would like more information.

Chic Brodie: I have another point to make—I am going to become a bore on the subject. Two weeks ago, we discussed how long one element was taking. We need to start asking those who advise ministers exactly when in early 2015 we can expect to see the outcome. In business, if I am asked to do something, I cannot say, "I'll do it early next year." It is incumbent on us to start asking when we will see information and outcomes and what those outcomes will be, so that we can promote the interests of those who bring petitions to us.

The Convener: Neil Findlay has been a champion of the issue. I invite him to address the committee.

Neil Findlay (Lothian) (Lab): I have with me the patient information leaflet that has been produced to accompany the on-going trials. Given the lack of information in the leaflet, the belief is that people are being, in effect, hoodwinked into taking part in trials. They are being asked to take part without knowing that they will have a mesh device fitted or that the procedures have been suspended by the Scottish Government pending a safety review. That is a concerning situation. There is no mention of mesh in the leaflet.

Since the process started, we have seen the suspension—or the alleged suspension—of the procedure in Scotland; a working group has been set up; a revised consent booklet that should include the word "mesh" is being created; US courts have twice found products to be defective; and, alongside all that, the deputy chief medical officer—one of the most senior medical officials in the country—has been encouraging women to take part in trials.

Also since then, many settlements have been reached in the US courts. The list that I have covers two pages. There was a settlement on 4 March of \$16 million; on 3 April of \$1.2 million; on 5 September of \$3.27 million; on 8 September of \$73.5 million; on 30 September of \$1.6 billion; on 21 October of \$21 million; and so on.

My concern is primarily for the women who are affected and those who might be affected if they take part in a trial and are injured by the product. However, I have another concern. Those lawsuits are massive. We know the number of people who have been affected in Scotland, and the consequences for our national health service if the situation develops in the way that it has in the US and is likely to in Australia are eye watering.

The Convener: It would help if you could leave the information that you have quoted with our officials, for the *Official Report*.

I put on record the fact that the committee is due to visit Brussels soon. We made attempts to contact the office of the European Commissioner for Health to raise the issue. Although we will not be able to meet him when we go to Brussels, we are assured that we will meet his officials at some stage. That is important. We want to put the issue to bed, because it is crucial across Europe and America, as Neil Findlay has stated. We will give people further information about that when we have had the meeting.

John Wilson: On the back of Neil Findlay's comments, one of the problems, which the petitioners highlight in their updated submission, is the lack of certainty in the reporting mechanisms from health boards around Scotland. The petitioners have highlighted that some of the evidence that health boards provided—I welcome that evidence—clearly indicates that they do not keep or might not be keeping accurate records of incidents when patients have reported concerns about the devices that have been fitted. Concern has been raised about that.

The petitioners have asked whether the records include referrals to specialist services and general practitioner referrals. The British Medical Association's response states:

"The BMA recognises that many women have suffered complications following the insertion of a polypropylene mesh medical device".

However, the difficulty is that we do not have an accurate number of the women involved, because of the reporting mechanisms and the issue of who patients speak to after an operation. Do they raise concerns only with their GPs or are they referred back to the consultants who carried out the operations?

We must try to impress it on the Scottish Government that we need to find ways of accurately measuring the number of operations that have resulted in complications in later years or immediately after they were carried out. It would be useful to get some clarification because, if health boards are not clear about the reporting mechanisms, we certainly cannot be clear about

the number of incidents that have taken place in Scotland.

The Convener: Neil Findlay raised a specific point about the future liability of the Scottish Government to court actions. Do members agree that we refer to that in our letter to the Cabinet Secretary for Health and Wellbeing?

Members indicated agreement.

Neil Findlay: Another issue is the information leaflet that is provided to those who might be considering—or might be being considered for—trials. A major concern is that people are being approached about clinical trials without having the full evidence. I do not want to tell the committee what to do, but it might be appropriate to write to the Scottish Government and the other agencies involved about the issue.

The Convener: When the minister was before us, we discussed the wider issue of informed consent. I think that you are raising the question whether consent is informed.

Chic Brodie: Like Jackson Carlaw, I understood that there was to be a moratorium. The letter from the chief executive of NHS Grampian, who I think is no longer with us, suggests that

“medical recommendations should be based on medical literature, high quality medical research focused on patient-reported outcomes and clinical expertise.”

The penultimate sentence of the letter states:

“We must avoid basing any recommendations on the basis of media or political pressure.”

I believe and will personally ensure that anything that comes out of the committee is properly directed political pressure. The political pressure comes from those who come here with petitions and, if the balance of probability results in a cabinet secretary announcing a moratorium, the people who run the various health services should understand that that is properly directed political pressure.

The Convener: The wider point, which Mr Brodie rightly makes, is that our consideration of several previous petitions has shown that a clear and well-accepted Scottish Government policy might not be fully implemented by health boards. That is a common theme that we have raised time and again.

I am conscious of the time. If members have no further points, do we agree that we write to the Cabinet Secretary for Health and Wellbeing about liability costs and informed consent and that we defer consideration of the petition until 2015 to await the opinion of the Scientific Committee on Emerging and Newly Identified Health Risks, which the European Commission requested?

Members indicated agreement.

John Wilson: I add to the list that you have read out the issue of the records of incidents that health boards are keeping. It is important that there is an accurate record and that the patients who are suffering can be assured that their issues are being heard and reported appropriately.

The Convener: Thank you for that point. We will add that to our list of objectives. I thank Neil Findlay for giving evidence and all the supporters in the gallery who have come along again. We are with you on the petition. Thank you for all the work that you are doing.

No More Page 3 (PE1521)

The Convener: The next petition is PE1521, by George Eckton and Jane O'Donnell, on no more page 3 in *The Scottish Sun* and the Scottish Parliament. Members have a note by the clerk and the submission. Jackie Baillie has an interest in the petition. I invite committee members to raise any specific points.

There are a couple of options. We could write to the EHRC for its views on the sale and availability in the workplace of *The Scottish Sun* while it carries the page 3 feature. Are members happy with that course of action?

Members indicated agreement.

Jackie Baillie: I am pleased that the committee agreed to write to the EHRC. I encourage the committee to write to Rupert Murdoch, on the back of the letter from Gordon Smart, the editor of *The Scottish Sun*. In his letter, he suggests that Rupert Murdoch is considering the future of page 3, so that might be a timely intervention by the committee.

Unless I have read the note wrong, there does not seem to have been a response from the SNP group. I do not know whether that is an oversight but, as the SNP group is the largest group in the Parliament, I hoped to see a response from it. The committee has the opportunity to chase that down.

Since the committee previously discussed the petition, a complaint against *The Sun* has been lodged with the Advertising Standards Authority about the offer of a date with a page 3 model as the prize in a contest organised by the paper. I am pleased to say that the authority upheld the complaint on the basis that the offer objectified women.

For all those reasons, I hope that the committee will continue the petition.

The Convener: Jackie Baillie has recommended that we write to Rupert Murdoch.

Chic Brodie: I made it clear before and I make it clear again that I ask why we are talking about *The Sun* specifically. We may as well widen the scope. Never mind what those who are involved are doing—which I do not approve of—they wish to do it. We are encroaching on certain freedoms.

In general, although I support this, let us not particularise. We had another petition that said that we should say no to a particular supermarket. I am concerned that we will pillory one thing in particular. Let us look at the whole thing.

The Convener: I am not going to get involved in the debate, but we can deal only with the petitions that are in front of us. The petition in front of us specifically mentions *The Scottish Sun*, which is owned by Rupert Murdoch. That is why Jackie Baillie made her suggestion. I ask for the committee's view on whether we should write to him.

Anne McTaggart: I totally agree that we should write to Rupert Murdoch. I am absolutely disgusted that we have such newspapers in the Parliament. I have read the Scottish Parliamentary Corporate Body's letter and I am not sure why we are still deliberating the issue. *The Sun* is distributed without page 3 in other areas, so why not here? I am absolutely appalled that this is on-going.

The Convener: If the committee agrees, we can write to the EHRC on that very point.

Angus MacDonald: It is on record that, when the petition first came to the committee, I suggested that we write to Rupert Murdoch. I concur with Jackie Baillie.

The Convener: You are obviously ahead of the pack.

Do members agree to write to the EHRC in the terms that I described and to Rupert Murdoch for his views on the petition?

Members *indicated agreement.*

Chic Brodie: I express again my deep concern about particularising. We might as well include *The Daily Star*, the *Daily Sport* and all those other organisations.

The Convener: You have made your point clearly, but I re-emphasise that we are dealing with a specific petition that mentions a specific paper. If we receive other petitions that deal with other papers, we will deal with them.

I am conscious of the time. Do members agree to defer to a future meeting the other petitions on the agenda?

Members *indicated agreement.*

The Convener: I apologise to the petitioners for having to do that.

12:29

Meeting continued in private until 12:30.

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