

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 27 May 2008

Session 3

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# CONTENTS

Tuesday 27 May 2008

	<b>Col.</b>
<b>CURRENT PETITIONS</b> .....	828
Criminal Memoirs (Publication for Profit) (PE504) .....	828
Air-guns (Ban on Sale and Use) (PE 1059) .....	832
<b>NEW PETITIONS</b> .....	835
Fire Service Boards (PE1147) .....	835
Hypertrophic Cardiomyopathy (Screening) (PE1151).....	845
Closed-circuit Television Provision (PE1152) .....	854
Medical Records (Destruction) (PE1141) .....	862
Court of Session (Right of Audience) (PE1157).....	864
Disabled Parking (PE1149).....	864
Palestinian People (Rights) (PE1153).....	865
Inheritance Law (PE1154) .....	867
Young Offenders (PE1155).....	867
Children's Interests (PE1156) .....	870
<b>CURRENT PETITIONS</b> .....	873
Animal Carcasses (PE1004).....	873
Mesothelioma (Prescribing) (PE1006) .....	874
Village and Community Halls (PE1070) .....	875
Primary Schools (Visiting Specialist Teachers) (PE1071).....	876
John Wheatley College (PE1072).....	876
Registered Social Landlords (PE1075) .....	877
Historic Sites (Protection) (PE1078) .....	877
Wind Farm Developments (PE1095) .....	878
Motorcycle Facilities (PE1100) .....	878
St Margaret of Scotland Hospice (PE1105) .....	878
<b>NEW PETITIONS (NOTIFICATION)</b> .....	884
<b>ANNUAL EQUALITIES REPORT</b> .....	885
<b>ANNUAL REPORT</b> .....	886

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# **PUBLIC PETITIONS COMMITTEE**

## **10<sup>th</sup> Meeting 2008, Session 3**

### **CONVENER**

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

### **DEPUTY CONVENER**

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

### **COMMITTEE MEMBERS**

\*Bashir Ahmad (Glasgow) (SNP)

\*Claire Baker (Mid Scotland and Fife) (Lab)

\*Angela Constance (Livingston) (SNP)

\*Nigel Don (North East Scotland) (SNP)

Rhoda Grant (Highlands and Islands) (Lab)

\*Robin Harper (Lothians) (Green)

\*Nanette Milne (North East Scotland) (Con)

### **COMMITTEE SUBSTITUTES**

Jim Hume (South of Scotland) (LD)

Marilyn Livingstone (Kirkcaldy) (Lab)

John Scott (Ayr) (Con)

John Wilson (Central Scotland) (SNP)

\*attended

### **THE FOLLOWING ALSO ATTENDED:**

John Duffy (Fire Brigades Union)

Wilma Gunn (Scottish Heart at Risk Testing)

Councillor Peter Johnston (West Lothian Council)

Robert Kyle

Graeme McIver (Scottish Heart at Risk Testing)

Des McNulty (Clydebank and Milngavie) (Lab)

Ann Margaret Watson (Fire Reforms Action Group)

### **THE FOLLOWING GAVE EVIDENCE:**

Kenny MacAskill (Cabinet Secretary for Justice)

### **CLERK TO THE COMMITTEE**

Fergus Cochrane

### **ASSISTANT CLERKS**

Franck David

Zoé Tough

### **LOCATION**

Committee Room 2

## Scottish Parliament

### Public Petitions Committee

*Tuesday 27 May 2008*

[THE CONVENER *opened the meeting at 14:00*]

**The Convener (Mr Frank McAveety):** Good afternoon and welcome to the 10<sup>th</sup> meeting in 2008 of the Scottish Parliament's Public Petitions Committee. As always, I ask anyone who has an electronic device to switch it off in case it goes off during the meeting. We have received apologies from Rhoda Grant, who is looking after a relative.

I give a warm Scottish Parliament welcome to the president, members and officials of the equivalent petitions committee of the Parliament of Catalonia, who are with us today and tomorrow to examine how the public petitions system operates in Scotland and to consider whether there are any good lessons from Scotland that can be applied in Catalonia. We hope that today's discussion will interest our visitors and we look forward to having a more detailed discussion with them tomorrow morning.

We will begin with the continuation of our consideration of two petitions, on the publication of criminal memoirs and a ban on air-guns. We have with us the Cabinet Secretary for Justice, Kenny MacAskill, to give oral evidence on the petitions. Welcome, Kenny. The other items on today's agenda are the consideration of 10 new and 10 current petitions, the committee's draft annual report on equalities and the annual report for the parliamentary year 2007-08.

## Current Petitions

### Criminal Memoirs (Publication for Profit) (PE504)

14:02

**The Convener:** The first petition is PE504, from Mr and Mrs James Watson, calling on the Parliament to urge the Government to take the necessary steps to prevent convicted murderers or members of their families from profiting from their crimes by selling accounts of their crimes for publication. The committee has expressed concern about the lack of progress on resolving the issues that are raised in the petition, which is the oldest petition that we have under active consideration. Since the petition's inauguration way back in 2002, it has been considered by the Public Petitions Committee in three successive sessions of the Parliament.

Members have received a letter on progress on PE504. It might be useful if the cabinet secretary amplified on that in his opening statement.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Sure. We would like to say how sorry we are to the Watson family for their loss. We intend to do what we can to ensure that those who perpetrate crime do not profit from it. The previous Scottish Executive believed that there is good reason to seek to co-operate across borders on the matter and we share that view. Given the way in which any such publication may take place, there is good reason to ensure that we work together. We have been co-operating fully with our Westminster colleagues and we hope to publish our responses to the consultation shortly. The Prime Minister has sent an indication to Michael Martin MP of the prospects south of the border. We desire to work with Westminster to ensure that, north and south of the border, we achieve the necessary uniformity to deliver what I think all right-minded people in this country want and to ensure that it is effective.

**Angela Constance (Livingston) (SNP):** I appreciate that the responses to the consultation have still to be published, but what options are available? Is an out-and-out ban feasible, or are there other options?

**Kenny MacAskill:** A variety of options has been put forward for dealing with criminals. The one that the Prime Minister appears to be promoting is the civil option. We as a Government have, since May last year, made it clear that we wish to improve and ramp up the civil recovery unit, and we have made additional investments in it.

The perspective south of the border seems to be moving towards the consideration of how civil

recovery is enforced. There has been a slight delay down there, as the United Kingdom Government has abolished the Assets Recovery Agency, which was created to recover criminal assets. Its work is now divided among a variety of other organisations, including the Serious Organised Crime Agency. That is how the UK Government is dealing with matters, but we can see the merit in dealing with the issue in the same way north of the border.

We have our own civil recovery unit to ensure that those who perpetrate these actions—whether it is making money from publishing memoirs or turning ill-gotten gains into legitimate business, which undermines legitimate businesses—are dealt with. That is the way that we have to go in a much more complicated world.

**The Convener:** Is there any major distinction between how we handle the matter in Scots law and how it is handled in the rest of the UK?

**Kenny MacAskill:** No, I do not think so. The only real distinction is in how a case is processed through the courts, in that the UK had the ARA, and we have the CRU, and the courts to which a case would go are different. The general ethos would be the same north and south of the border: people should not profit from the publication of such memoirs, whether they are published as a book or in a periodical. I would have thought that the legislation is perfectly capable of being similar north and south of the border. Whether a case would go through the sheriff court or the High Court here, as opposed to, say, the magistrates court or the chancery division down there, would reflect the different court systems, but the ethos should be the same throughout the UK. The likelihood is that anything that is published in one jurisdiction would have an impact on the other, given that it is not simply the tentacles of crime that cross the border but the tentacles of publication, as we have seen in a variety of other cases. That is why, despite being a Scottish National Party Government, we see the merit in dealing with the issue in co-operation with our colleagues south of the border.

**The Convener:** Given that there is interest from a particular type of newspaper for the serialisation of books by individuals who have been involved in criminal activity, do you sense any resistance from newspapers to what you intend?

**Kenny MacAskill:** No, we have not picked up anything there. To some extent, we are dealing not with the publication but with the profits. There are other issues involved and a variety of other bodies to deal with what is fit and proper to be printed in publications. What concerns us here is the profiteering. I understand that the media south of the border have responded and that their comments will be available once we publish what

we have agreed with our colleagues south of the border. We are not aware of any problems from a Scottish perspective.

I have just been advised that the Newspaper Publishers Association said that it preferred the status quo, but it could see legitimate reasons why we may wish to go in a different direction. Although newspapers may have some qualms, it seems that—certainly north of the border—they are prepared to live with whatever comes through.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** Good afternoon, everybody. The difficulty is in the detail. It has been quite a time since the petition was lodged, but little has been resolved since then. We are now at the stage of almost introducing proposals to curtail the activity to which the petition refers. However, I cannot imagine how an individual who was convicted, served a sentence and was released, albeit on parole for perhaps a couple of years, could be prevented from selling their story to, for example, a magazine or other press outlets. Surely it would be almost impossible to prevent that.

**Kenny MacAskill:** That is the case. We recognise that there are significant problems in dealing with the internet and global publications. There has been a variety of cases, perhaps more so south of the border, in which information has been published in, for example, Germany or the USA after attempts were made here to restrict its publication.

We seek to work with colleagues south of the border in preventing convicted criminals from profiting from selling their story, which can be done in a variety of ways. It is reprehensible that somebody who perpetrates a crime should compound the agony of a family or, indeed, a community by seeking to make money from it. We must be able to claw back any such money and ensure that the individuals concerned have been punished for the offence that they committed.

**Nanette Milne (North East Scotland) (Con):** I note from the letter that was sent to the convener on 22 May that the UK Government has indicated that it intends to introduce legislation to cover this issue. Do you envisage separate Scottish legislation on the issue? If not, would we give legislative consent to the UK legislation?

**Kenny MacAskill:** We will need to discuss that with the UK Government. It will depend on the nature of the legislation, so I cannot commit to anything just now. Suffice it to say that the view of the previous Scottish Executive and the current Scottish Government is that we share the same problem with the UK Government, and if we can reach a shared solution, that will be the appropriate way to go. We will comment on how

we will deliver that once we have further information. However, we want to achieve justice for the victims in question north and south of the border.

**Robin Harper (Lothians) (Green):** We have heard that the petition has been around for nearly six years. I know that it would be difficult for you to do this at this point, but can you give us even a guesstimate of how much longer we must wait for legislation on the issue?

**Kenny MacAskill:** I cannot do that. Obviously, responses to the consultation and other matters must be discussed, as I said to Nanette Milne. If the matter is to be dealt with through UK legislation, the timescale for that is not within the Scottish Government's domain, although how we sought to implement the legislation would be. However, I assure you that we will seek to liaise with colleagues south of the border once a way forward has been agreed. We appreciate how often the committee and its predecessors have considered the issue. We also appreciate the continuing trauma that the situation causes the Watson family.

**The Convener:** As there are no further questions on the petition, I will say a couple of things. First, I understand that there will be political differences on issues, but it is welcome to have co-operation on an issue such as this because it transcends national boundaries. The minister's commitment to co-operate with the UK Government on the issue is therefore welcome. I would urge that that be a more commonplace approach by the Administration. Co-operation on this issue is important because of the family concerned.

Secondly, the petition has been in our system for a long time, but the committee recognises that the issue is complex and a legal minefield, so we must tread carefully. I hope that the legislation that may emerge in the Queen's speech will assist us in that process. Thirdly, I think that we all share the view that individuals who have led lives that involve certain activities should not benefit and prosper from that through the sale and publication of their material. I think that that is broadly the committee's view. I hope that we can make progress on the issue. We would welcome updates from the cabinet secretary on the progress of his dialogue with equivalent ministers in the UK Government.

**Kenny MacAskill:** I am happy to undertake to do that to ensure that we keep you fully apprised. As I said, we recognise the manifest injustice of this situation. Addressing that will not provide salvation for those who have lost, but it is clearly wrong that people should be able to profit in this way.

## Air-guns (Ban on Sale and Use) (PE1059)

14:15

**The Convener:** PE1059, from Andrew Morton, calls on the Parliament to urge the Government to support a ban on the sale and use of air-guns, except for certified pest control purposes or for use at registered gun clubs.

I see that a quick reshuffle of the witnesses is going on; I hope that that does not carry over into tomorrow's Cabinet meeting. The Cabinet Secretary for Justice is staying with us for this petition. Parliament has a legitimate interest in the issue that the petition raises, given the number of inquiries on it to which the cabinet secretary has responded. We are aware that discussions on the issue are continuing. I invite the cabinet secretary to make an opening statement, after which we will have a question-and-answer session.

**Kenny MacAskill:** I am delighted to make an opening statement. The Government is deeply concerned about the problems that we face not just with air weapons but with gun crime in Scotland. We need to tackle the gaps in our legislation in order to deal with air weapons, which are far too prevalent. Such weapons cause devastating injuries, as we saw in the tragic case of Andrew Morton, and there have been complaints from the Scottish Society for the Prevention of Cruelty to Animals and others about their effect on the animal world. Action has to be taken against people who misuse air weapons. The Government is committed to taking action. Only those who have a legitimate reason to use air weapons should be able to obtain them.

I have met the parents of Andrew Morton on several occasions. Most recently, I met them at a summit that we held on firearms. We are convinced that we need to take action on the scourge of air weapons and that we need a consolidated act. We heard at the summit that our legislation is piecemeal. Much of it has come together as a result of tragedies, such as the shooting of three police officers in London in 1966 and the events at Hungerford and Dunblane. It is understandable that there is a reaction to such events, but the problem is that we have ended up with fairly piecemeal legislation. We should have legislation that is much clearer not just to the legal expert but to the ordinary man and woman on the street.

The outcome of the summit was that a variety of parties, including political parties, acknowledge that the current situation is not acceptable. We as a Government believe that we should legislate in Scotland, but we are not going to stand on ceremony; if progress can be made more quickly elsewhere, we will accept that. However, it is

acknowledged that the status quo is not tenable. I cannot remember the precise declaration that the experts made but, since 1968, something like eight acts of Parliament and 13 amendments thereof have been passed, which makes the law extremely complicated.

We are keen to take action to obtain a consolidated act and to ensure that we close the loophole that means that many people still have far too easy access to air weapons, which are not toys but weapons that kill and maim indiscriminately.

**Nanette Milne:** How do you envisage controlling air-guns that are already in use?

**Kenny MacAskill:** We will consider that. The Republic of Ireland has legislation on a licensing scheme for air weapons. Our position is that we have to start by closing the stable door. It seems to us that air weapons should not simply be available over the counter in a shop to anybody aged over 17 who can produce a passport. There has to be some understandable reason why the person buying the weapon should have it. They should not be able to buy one simply because they want one; they should have to show that they have a legitimate use for it.

First and foremost, we have to restrict the on-going supply of air weapons. Thereafter, we have to make it quite clear that these weapons are not toys and that it is inappropriate to go to a piece of waste ground to fire them or just to fire them out the window. We must make it clear that the only legitimate reason for someone to use air weapons is that they are involved in pest and vermin control or that they are a member of a registered, responsible gun club. People should not access air weapons just because they fancy firing them in the back yard, given all the trauma and difficulties that can result.

**Nanette Milne:** I just wonder how it would be possible practically to control air-guns that are already in use, given that a lot of them are out there.

**Kenny MacAskill:** There are a lot of air weapons out there. What the summit was driving at was that we can first introduce a system for new sales, then restrict the use of weapons that are already in circulation. Your colleague Bill Aitken said that the police have made it clear that the issue is not with people who would use air weapons innocently but with those who would use them for a manifestly nefarious purpose. Those people will not disclose themselves to us, which is why we have police intelligence, co-operation with forces and jurisdictions south of the border, and the Scottish Crime and Drug Enforcement Agency and SOCA. The link with organised crime was made clear by the firearms experts. Also, since the

Balkans war, weapons have been coming across western Europe, in through the south of England and northwards. We are not immune to the difficulties that have been experienced south of the border and elsewhere.

**The Convener:** I know that the issue is complex, but can you give us a sense of the timescale?

**Kenny MacAskill:** We will work out what we think is appropriate in Scotland and communicate with the Home Secretary south of the border. These are reserved matters, and there is nothing that we can do without running into ultra vires actions. The current situation is untenable. I welcome the agreement among the political parties in Scotland that the current law is not fit for purpose and that it is important that the Home Secretary should act. If she is prepared to act on a pan-UK basis, this Government will welcome that and do what is necessary to deliver on it. Doing nothing is not an option. We will continue to press the UK Government.

There is an on-going problem which, it would be fair to say, is not simply a Scottish problem. Air weapons are a problem south of the border. The difficulty is that some tragedies in England may have taken the limelight away from air weapons because they have involved a significantly higher calibre of weapon. We hope that the UK Government will be able to act on that. In seeking to work out what could be done, we are considering the Republic of Ireland, where action is being taken to ensure that such weapons require to be licensed. The Scottish Government will say what it wants to do here, and I hope that the Home Secretary will say either, "That's grand. I'll do that for the whole of the UK," or, "That's grand. Get on and do what you want to do in Scotland because we don't want to do it south of the border."

**The Convener:** Is there a third possibility?

**Kenny MacAskill:** The third possibility is doing nothing, which is untenable. Either the matter should be dealt with by the UK Government, or the UK Government should give us the option of getting on and doing our own thing. If people have other ideas, the Scottish Government will happily take them on board. However, I cannot for the life of me think of another route apart from the two that I have mentioned.

**The Convener:** This has been a useful session on the two petitions. I hope that we have made progress on both of them. If there is any further information that you believe would be of use to the committee, we would be happy to receive it.

**Kenny MacAskill:** I am delighted to do so.



## New Petitions

### Fire Service Boards (PE1147)

14:23

**The Convener:** After the speed of the Cabinet Secretary for Justice's contribution, I hope that the interpreter from Catalonia is resting her voice.

PE1147, from Mrs Annmargaret Watson, is on behalf of the fire reforms action group. The petition calls on the Scottish Parliament to urge the Scottish Government to review current legislation to ensure that each local authority is represented on the fire service joint board, to ensure that board decisions reflect local concerns and views, and to revise legislation that prevents local authorities from increasing fire cover without full joint board authorisation and bring it into line with police service cover.

I welcome to the meeting Annmargaret Watson, Councillor Peter Johnston, and John Duffy from the Fire Brigades Union.

**Annmargaret Watson (Fire Reforms Action Group):** Thanks very much for giving me the opportunity to speak to you in support of our petition. Our campaign to save our fire services has been lengthy and, at times, complex. I might cover some things that you will not fully understand, so I would appreciate it if you asked me, Peter Johnston or John Duffy if you need any clarification.

Unfortunately, our campaign to retain two whole-time fire appliances failed, despite the massive opposition to the cuts by West Lothian residents, firefighters, the full West Lothian Council, the Fire Brigades Union Scotland and our MSP, Angela Constance—although at the beginning, she was not yet our MSP.

West Lothian Council is part of the Lothian and Borders Fire and Rescue Board. Therefore, our fire services are governed by councillors who do not live in our area, might not even know it and are certainly not accountable to its electorate. Members of the fire board from outwith West Lothian have shown very little interest in the huge opposition to the cuts. Shocking statistics were presented to the fire board by Councillor Johnston. Basically, those stats showed that our current retained fire services in West Lothian were unable to attend incidents or were off the run more than 1,500 times between March and October 2007. Those vital statistics should have been taken into consideration, but they were not even looked at properly by the board. One of our main concerns about the new crewing arrangement in Livingston is that the retained crews that now operate one of our appliances from 5 pm to 9 am Monday to

Friday, and all weekend, could face similar problems.

The current whole-time appliance is backed up by a retained crew and there is a time lag for that crew reaching our whole-time guys with a back-up. Other retained crews and one other whole-time appliance from Bathgate are being called into our area. That in itself means a longer time lag and puts the whole-time firefighters and our communities at greater risk.

Despite the more recent provisions of the Fire (Scotland) Act 2005, the South Eastern Combined Fire Services Area Administration Scheme Order 1995 (SI 1995/2634) determines the composition of the board. The order, which has not been reviewed since it came into force in 1995, specifies that the number of councillors allocated to the fire board is determined by population. West Lothian's population has grown massively since 1995 and the composition of the board might be outdated. It is part of our petition that that needs to be examined.

Local authorities are able to increase police cover if they see the need, but they cannot do that with fire services—they need the authority of a fire board. West Lothian Council offered to pay £500,000 to keep our whole-time appliance, but the fire board turned them down. We were able to pay for the appliance, but were told that we would not be allowed to pay. The arrangements for fire services must be brought into line with those for police services so that, if our local authority wants to increase fire cover, it may do so. The legislation must be changed.

We fear that the Lothian and Borders Fire and Rescue Board has set a precedent on the best value that it feels it is delivering in West Lothian. Brigades elsewhere in Scotland could be put under pressure to deliver similar best value—as the board sees it. For example, Perth's population is roughly 45,000. It has 72 whole-time firefighters and five whole-time appliances. Livingston's population currently sits at roughly 70,000. We have been left with 34 whole-time firefighters who man one whole-time appliance and one that operates with whole-time guys between 9 am and 5 pm Monday to Friday. Delivering such best value throughout Scotland would be an absolute disaster for Scotland's fire services.

I ask the committee to help to preserve Scotland's fire services for future generations. A change in legislation to bring our fire services into line with police services would allow our local authorities to maintain the peace of mind that their firefighters and residents deserve.

14:30

**The Convener:** I invite questions from members. Any one of the three witnesses may respond. Members should indicate whether questions are directed at a particular individual.

**Angela Constance:** I declare an interest. I am delighted that Annmargaret Watson is here today on behalf of the fire reforms action group, as the petition relates to a live issue in my constituency. I have three questions.

First, our briefing paper on the petition refers to “the planned closure of a fire station in”

Livingston. That information is incorrect. The proposal is not to close a fire station but to downgrade the second pump from a full-time crew to a partly retained crew. From your presentation, I understand that you do not object to retained crews in principle, but that you are concerned about whether they can meet the needs of the Livingston community. You indicated that there are problems with retained crews, because there are a number of times when a crew cannot be put on the run—I am struggling with the terminology. You also indicated that a precedent is being set. Can you say more about the problems associated with retained crews and why there is a danger of setting a precedent for the rest of Scotland?

**Annmargaret Watson:** Using a retained crew involves a time lag, because the firefighters are on call and have to come to the station from their homes or workplaces. I know some members of retained crews who have indicated that it takes them seven minutes to get to the fire station. That time lag is a major concern for firefighters and residents. Safe working practice stipulates that, apart from in exceptional circumstances, firefighters should not enter a fire without having a back-up crew. If we have only one whole-time crew, when it goes out on a call it must either enter the fire without back-up or wait until a retained crew arrives. It is in firefighters’ nature not to wait until a back-up crew has arrived—they will put themselves in danger by going in without back-up. That is not acceptable for either firefighters or residents. The first crew that goes in does firefighting and the second crew is responsible for search and rescue, so the search-and-rescue aspect of the operation will be affected. That is not good enough.

**Angela Constance:** My second question is for Councillor Peter Johnston. It is unusual for a local authority actively to pursue another agency—in this case, the Lothian and Borders Fire and Rescue Board—and to offer to pay £500,000 to retain a service. Why has West Lothian Council found itself in that unusual position?

**Councillor Peter Johnston (West Lothian Council):** Good afternoon. You are absolutely right to say that the position is unusual. Like most local authorities, we would prefer not to volunteer our scarce resources to other agencies unnecessarily. In West Lothian we recognised unanimously—across the political divide—that the retention of two whole-time crews is essential to the delivery of a safe and effective fire and rescue service. We pursued the matter relentlessly within the fire board and presented a case that we thought was unanswerable, including statistics from the fire officers themselves—which Annmargaret Watson part-referenced—that showed some 1,500 occasions when retained crews were unable to muster a crew throughout West Lothian.

In spite of that, we were told that it would be safe to replace a second whole-time pump with such an arrangement. That caused us such serious concern that, having been unable to persuade colleagues throughout Lothian and Borders that the second-busiest station in the region should retain both its whole-time pumps, West Lothian Council offered to use its own resources to pay to retain that service.

Incidentally, we are paying for additional police officers in West Lothian because community safety is a priority for us. We are able to do that but, because of the statute that governs the fire board, unless the board is prepared to allow us to pay for the pump—and in this case, it is not—we are prevented from doing so. We find that perverse.

**Angela Constance:** Will John Duffy give us an insight into why the FBU supports the petition? Given that, under current legislation, the relevant cabinet secretary has some scope to intervene, why does the FBU support the petition’s request for the legislation to be changed so that there is parity between fire boards and police boards?

**John Duffy (Fire Brigades Union):** The use of retained firefighters is not in itself a problem for the Fire Brigades Union. The retained provide an excellent service in outlying areas throughout the country but, generally speaking, the annual number of calls in such areas would make having full-time crews there unsustainable. We use 365 calls as a general cut-off point; if a station has up to 365 calls a year, having a whole-time crew would simply be uneconomical for local authorities. However, we are talking about a station that had 2,022 calls last year. It is the second-busiest station in Lothian and Borders and one of the busiest stations in Scotland. The justification for moving from a whole-time crew to a retained crew is simply economic and to apply an economic test to a safety system is unacceptable to us.

The crux of the matter for us is crew safety. Crews from that station will turn out more than 2,000 times a year and their back-up will be delayed by the nature of the retained crew system. To clarify, the retained crews are not part-time crews; they are on pagers and have full-time jobs elsewhere in the community. They have to respond from their workplaces or their homes, get to the fire station and then get out of the doors. When the whole-time crew arrives at the incident, it is faced with the choice of waiting for the back-up or going in. I have been a whole-time firefighter for 20 years and that choice is a no-brainer to me: I would go in. The problem with going in is that it means that all our standard operating procedures, systems of work and risk assessments are gone. For that situation to be based on an economic test is unsustainable.

Having put that argument to the fire board and the councils, and having had West Lothian Council accept it, we find it really strange that the fire board turned down the offer of money. That is the reason why we are here supporting Annmargaret Watson and West Lothian Council.

**Nigel Don (North East Scotland) (SNP):** Will Councillor Johnston explain—if it is explicable—how the fire board managed to turn down West Lothian Council's case?

**Councillor Johnston:** I do not understand how it made that decision. We thought that we argued the case well. We presented statistics from the fire officers' organisation and the fire board did not dispute them. The only explanation is that the board's decision is made by councillors who are not accountable in West Lothian, did not see the matter as a priority and did not want to set a precedent whereby their local authority might be asked to pay for services. I can think of no other reason. You need to ask the board that question, because I found its decision inexplicable.

**Nigel Don:** Forgive me, but is there nothing on the record to explain how the decision was made?

**Councillor Johnston:** The fire board's minutes show us putting our case. They indicate that we offered to pay and that we made it clear that West Lothian Council would fund the retention of two whole-time pumps, but that we needed the fire board's permission to do that. That was all accepted. The public record shows that, I think, six councillors voted in favour of accepting the offer from West Lothian Council and nine voted against.

**Nigel Don:** Is there any suggestion that the sum of money that you offered was inadequate?

**Councillor Johnston:** No. The sum required to retain the two whole-time pumps was verified by the board's treasurer, so the board did not think that we were trying to get something without paying the full price.

**Nigel Don:** My second question is for Mr Duffy. Is there a difference in training and expertise between a full-time fireman and a retained fireman? I recognise that retained firemen do different full-time jobs.

**John Duffy:** The easiest way to clarify the difference is to take new recruits as an example. A whole-time new recruit would do 16 weeks' training at the Scottish fire service training school at Gullane and would then embark on a 45-module training programme that is designed to make them competent in three years. The retained recruit would, generally speaking, have a fortnight's initial training, either at Gullane or at their home fire brigade. They would then embark on elements of the 45-module training programme. Their training varies throughout the country as there are different standards across Scotland. Some retained recruits do 17 modules, some do 18 and others do not use the modular system. The best guess is that if the retained were to complete all 45 modules it would take them eight years.

The fact that they are called retained is significant; their commitment is to do two hours training per week and that is it. They respond on their pager as and when they are required. Most whole-time firefighters will do two hours of training every day or night that they are on duty.

**Nigel Don:** I am not impugning the skills of people who work very hard and do a dangerous job for us, but it is not unfair to say that the average skill of a retained crew that turns out will not be the same as that of a full-time crew. That is a fact of life.

**John Duffy:** It is a fact of life and that is why, generally speaking, retained firefighters are used in outlying areas where there are fewer calls per year. They provide a system whereby a community that would not normally have anything has a fire engine. We acknowledge that the retained are a massive part of the fire service in Scotland and that they do a fantastic job, but it is not an appropriate way to crew the appliances in a fire station that is as busy as Livingston's and which covers a population the size of Livingston's.

**Nigel Don:** You mentioned that there are more than 2,000 calls a year.

**John Duffy:** The number of turnouts for Livingston in 2007 was 2,022 calls.

**Nigel Don:** Could you estimate, or do you know, how many of those calls coincided in such a way that you were trying to be in two places, or, conceivably on rare occasions, in three places at the same time?

**John Duffy:** I do not have a breakdown of the figures before me, but there is a general acknowledgement that any fire engine might be in

the wrong place when the fire call comes in, hence there is a system in place whereby support is provided across different station boundaries. However, we must plan as if resources were where they would normally be. That leads to the problem that one appliance goes out the door one minute and another appliance goes out the door some time later. That lag time causes us the main concern.

14:45

**Nigel Don:** For those of us whose central-belt geography is not as good as it should be, will you say how far from Livingston is your natural back-up in Bathgate?

**Councillor Johnston:** The answer depends on which part of Livingston you are talking about.

**Nigel Don:** I was thinking of the distance from fire station to fire station.

**The Convener:** It depends on whether or not you want to go to Livingston.

**Councillor Johnston:** Absolutely—and you would not start from there in the first place.

The distance from Bathgate fire station to Livingston fire station, which is based in Craigshill, is about 4 miles or perhaps 5 miles.

**Nigel Don:** They could be pretty long miles in bad traffic.

**Councillor Johnston:** Absolutely—particularly at peak hours. It is unfortunate that, as Livingston has grown, we have developed our own traffic jams.

**Nanette Milne:** Does the joint fire board plan to cut services in other council areas? What reasons has the board given for the cut in West Lothian?

**Annmargaret Watson:** We have been told two stories—the official and the unofficial. The official answer is that the board has no plans. The changes that have been made in West Lothian are part of an integrated risk management plan, which runs to 2010. Thereafter, another IMRP will be issued, the contents of which we do not know. However, if Livingston's arrangement is hailed as a success, there will be no reason not to roll it out elsewhere. The unofficial answer is that it is obvious that the system will be rolled out elsewhere if it succeeds. The interpretation of success depends on the person.

I am sorry—what was the second question?

**Nanette Milne:** Have reasons been given for the cut?

**Annmargaret Watson:** The number of firefighters at Livingston fire station has been reduced by 21. Seven were taken to Whitburn,

which is still part of West Lothian; seven were taken to Penicuik; and seven went to Duns. Those guys operate in those areas from 9 until 5, Monday to Friday, with the purpose of delivering a community fire safety programme. We realise that that is a major and welcome part of the fire service, but we feel that our services have been removed before it has been proved that community fire safety activity is working. That decision was all part of the integrated risk management plan.

**The Convener:** Am I correct to say that Her Majesty's fire service inspectorate for Scotland is staffed by former firefighters?

**John Duffy:** Yes. In general, the inspectorate is staffed by former chief fire officers.

**The Convener:** My question is difficult, but I want to ask a difficult question, since I am here. The inspectorate is staffed by former serving fire officers and it has claimed that the diminution is acceptable. Why is the inspectorate wrong?

**John Duffy:** The previous chief inspector—Jeff Ord—was well known for his cuts agenda. He advocated the reduction in control rooms, which the Government has—thankfully—thought better of. He pushed for the introduction of combined aerial rescue pumps, whose sole purpose is to reduce the number of firefighters.

As Annmargaret Watson said, operational firefighters in West Lothian have been moved into non-operational fire safety posts. If that proves that fires can be prevented by handing out leaflets and fitting smoke detectors, I will be the first to come back here to say that we do not need fire engines. However, until community fire safety activity has a proven record of consistently reducing fires, injuries from fires, deaths from fires, road traffic accidents and the number of people who are killed or maimed in road traffic accidents, I will advocate the retention of fire engines, firefighters and pumps on the run.

**The Convener:** As a result of the change in composition of the fire board after the 2007 elections, has there been any sense that the new fire board wishes to revisit the issue, or has it affirmed the decision?

**Councillor Johnston:** That is interesting. The decision was taken just before the elections in May 2007. The new fire board initially suspended the decision and allowed the matter to be revisited. Unfortunately, we believe that it was revisited in a way that did not allow full discussion. For example, we presented the information that retained firefighters in West Lothian had been unable to form a crew on at least 1,500 occasions, but that information was not allowed to feed into the decision-making process. The decision to press ahead with the previous board's decision

had already been made and the fire board would not allow that information to be debated fully.

That is about the process, but the nub of the petition is about why, if we want to pay for additional fire services in West Lothian, we cannot do that, when we can pay for extra police. If West Lothian Council believes that additional fire services are a priority, why can it not pay from its resources to deliver the quality of service that we want in our local authority area?

**The Convener:** That is the nub of the petition and that is the core point that I wish to question you further on. Has the local authority raised the matter with the minister with responsibility for the fire service in Scotland and, if so, have you got anywhere?

**Councillor Johnston:** We have not raised the matter officially with the minister as yet. We felt that the Public Petitions Committee was the appropriate avenue to pursue initially.

**The Convener:** That is a pity, because he was here about 15 minutes ago.

The process is important. Issues arise about what happened from 2005 to 2007 and you have concerns about the manner in which the fire board arrived at the decision to continue with the policy. As a local authority representative, you are concerned about how you can provide the level of service that you think is appropriate for local circumstances. It would benefit you if you initiated direct contact with the minister, alongside the petition. I am sure that the elected members who support the petition will pursue that approach, too. That would be a useful addendum to the petition.

We need to try to distil what you have said and interrogate the responsible organisations about how decisions were arrived at and whether they can be revisited. Do members have any questions before we pull together our views?

**Angela Constance:** I have a brief question, which I hope is not a leading question, although it might be. Is it not the case that, in West Lothian there is cross-party support for the views that are set out in the petition and that that was the case before and after the election? The issue is not so much party political, but geographical.

**Councillor Johnston:** Yes. West Lothian Council consists of Scottish National Party members, Labour Party members, one Conservative, three campaigners on action for St John's hospital at Howden and one independent. At full council meetings, everyone has supported the requirement for two whole-time pumps.

**The Convener:** That is helpful. Annmargaret Watson presented the petition, supported by John Duffy and Peter Johnston. The process now is that we will raise the issues directly with several

agencies. We will have a shared discussion about which agencies to approach. Once we have received the responses, the petition will come back before the committee. You will be notified of that in advance. You may not get a chance to speak directly to the committee again, but you can certainly be present as a member of the public to find out about progress.

Angela Constance made a helpful point about the unanimity in the area on the issue. The concern is geographic, rather than political. I am keen to get a sense from members about which organisations we should approach. I am open to suggestions on that.

**Angela Constance:** There are three distinct partners and shareholders in the operation and accountability of fire services. There are the managers in the Chief Fire Officers Association, and the employers in local authorities and the Convention of Scottish Local Authorities, but I would also be interested in a formal written response from the FBU, so that we have absolute parity. We should seek written responses from the three major stakeholders—the managers, the employers and the front-line staff in the form of the FBU.

It would be interesting to hear from individual local authorities, including West Lothian, but also others such as Perth and Kinross Council. We might want to seek views from a mix of local authorities, including a city one. There are also some unified boards, which might have a different perspective. We should also seek views from the Scottish Government.

**The Convener:** It would be useful to get views from a smaller authority that is in a board area that includes larger authorities that have substantially more elected members. In the example that we are discussing, the City of Edinburgh Council has three times as many members as West Lothian Council, which has the second largest membership. It would be useful to know how they cope with the issues. In the smaller authorities, it might be more difficult to pull together a coalition on a fire board to get a direction of travel on an issue.

Do we want to get some views from the Chief Fire Officers Association? To be fair, there is a contentious issue between chief fire officers, fire masters and the FBU.

**Angela Constance:** I appreciate that, convener. We should seek views from the Chief Fire Officers Association, provided that we also consult the employers and front-line staff.

**The Convener:** There is no harm in having contentious issues in front of us. Committee members will deliberate on those when we get

them. We need a broad view so that we can arrive at conclusions that have substance.

Ann Margaret, thank you for your contribution. I know that it was a wee bit nerve-wracking for you at the beginning, but you have raised legitimate concerns about the issue. I also thank John Duffy and Peter Johnston for coming along in support of the petition. We will keep you updated with the progress that we make at our end. No doubt you will have contact with elected members around the table who can assist you in the process.

### **Hypertrophic Cardiomyopathy (Screening) (PE1151)**

**The Convener:** The next petition is PE1151, by Wilma Gunn, who is the founder and chairperson of Scottish Heart at Risk Testing. The petition calls on the Scottish Parliament to urge the Scottish Government to review the need to establish a national heart screening programme for young people who take part in sport and for families at risk, and a national screening council to oversee such a programme.

The petition is appropriate, given the poignancy of the recognition that was given at the weekend to the contribution that Phil O'Donnell made as a young man playing sport in Scotland. I am sure that the testimony to his life and his family at the weekend touched the hearts of many people in Scotland, as has happened with other individuals who have lost loved ones because of unexpected death through heart failure. I know that that has affected Wilma Gunn. I thank her for coming along and I hope that being at the committee is not too intimidating. She is accompanied by Graeme McIver.

If you want to make an opening statement, you can do so. We will then move to questions.

**Graeme McIver (Scottish Heart at Risk Testing):** Thank you, convener. I will make our opening statement. I am a volunteer for Scottish HART.

We thank the committee for allowing us to address you on what is a particularly poignant day for Wilma Gunn. Today is the 17<sup>th</sup> anniversary of the death of Wilma's son Cameron, who died while playing football in the Borders. We had hoped to be joined today by Professor Stewart Hillis, who is a patron of Scottish HART, but he is unable to attend. We will endeavour to answer any questions that you have, but neither Wilma nor I are medical experts. If there are any questions that we cannot answer, we will endeavour to get the answers to you later.

The petition is part of Scottish HART's 11-year-long campaign for a full and proper heart-screening programme not only for all young

people taking part in sport in Scotland but for the families of those identified as being at risk.

15:00

During those 11 years, we have often been frustrated that, although some good and well-thought-out initiatives have appeared in some parts of the country, there has been little, if any, joined-up thinking throughout the country as a whole. It is a well-publicised fact that Scotland ranks as one of the worst countries in the western world for heart-related health problems. In many cases, those problems are related to lifestyle choice, poor diet, lack of exercise and excessive smoking and alcohol intake, and Government agencies and health professionals in this country have made noticeable efforts to raise awareness and to promote alternative lifestyle choices and improved diet and fitness levels.

Unfortunately, however, the types of heart disease that Scottish HART campaigns to raise awareness of often strike those who seem to be the healthiest and who lead full and active lives, participating in sport and other leisure activities. We are joined in the public gallery by families from all over the country who have suffered the loss of loved ones through conditions such as cardiomyopathy and arrhythmia. These are particularly cruel diseases that often remain undiagnosed, given the person's outward signs of good health. Indeed, as the convener pointed out, a number of high-profile cases both recently and over the past few years have involved the sudden death of very fit individuals such as footballers and young athletes.

Cardiomyopathy, which results in a thickening of the heart muscle, manifests itself in periods of maximum body growth, usually the teenage years. Throughout the country, children are endangering their lives by participating in sport. Scottish HART welcomes the Scottish Government's recent announcement of a pilot screening project at Hampden Park for amateur athletes over the age of 16. That development, which has been devised in conjunction with the chief medical officer, is important in the process of identifying those suffering from the disease. However, although we congratulate all those involved in the scheme, we want a much broader screening scheme for all children and young people in line with a similar model that operates successfully in Italy. We can provide evidence to the committee on that project.

The Italian scheme, which has been analysed by, among others, Anna Maria Choy at Ninewells hospital in Dundee, involves screening everyone between the ages of 12 and 35 who participates in sport and the families of those considered to be at risk. Over the past 25 years, the scheme has

reduced the incidence of sudden cardiac death during sport by as much as 89 per cent.

Scottish HART realises that introducing such a scheme and fulfilling the request in our petition that it be administered and run in Scotland will not come cheap. Yes, substantial funding will be required; yes, health professionals will have to be fundamentally involved in the whole process; and yes, political will will be needed to introduce the proposals. However, if we do not introduce a full and wide-ranging screening programme that is fit for purpose and has the backing of Government and health professionals, we will continue to see the preventable deaths of many more young people. Scotland and its youngsters cannot wait any longer.

I thank the committee for listening. We will endeavour to answer members' questions.

**The Convener:** Thank you for those extensive introductory remarks, which have been very helpful for filling in the background. I also thank Wilma Gunn for allowing this to go ahead.

I know that Nanette Milne is one of Scottish HART's patrons—I am sure that she will declare as much when she asks her questions.

**Nanette Milne:** I certainly declare an interest as a patron of Scottish HART, a responsibility that I took on not long after I became an MSP. I pay tribute to Wilma Gunn for her dedication and commitment to this cause over many years. Things have moved on, but, as Graeme McIver has made clear, they have not gone far enough.

A number of years ago, when Malcolm Chisholm was the relevant minister, I attended a meeting with Wilma Gunn, Professor Hillis and others. At that time, the stumbling block to the establishment of a national screening programme was the advice of the National Screening Committee. Is there any indication that the committee has changed its thinking?

**Wilma Gunn (Scottish Heart at Risk Testing):** I feel that the Scottish Government should have its own screening committee. We have been taking advice from Westminster for too long. If it is correct that we should not be screening our young people, why are other countries screening their young people? In Greece, every four-year-old child is screened before they go to school, and two doctors must sign a piece of paper to say that it is okay for them to do sport. Italy, Finland, Japan, Sweden and America all check to see that their children's hearts are okay. However, for nine years now, children in this country have been leaving school without even a medical, which means that other things, such as their hearing and sight, are not being checked. That is wrong. We are not looking after our children's health.

My son, Cameron, was diagnosed 37 years ago in the Edinburgh eastern general hospital, two days after he was born. He died the night before his 20<sup>th</sup> birthday, and he would have been 37 years old tomorrow. For years, I have been trying to get people to understand that we are well behind other countries with regard to our approach to the health of our young people. The Scottish Government is now in a position to say that we should have our own screening committee, not only for heart disease but for other conditions, so that we could oversee the health of our nation.

**Nanette Milne:** Could you tell us how the scheme in Italy operates?

**Graeme McIver:** Dr Anna Maria Choy, a cardiologist at Ninewells hospital in Dundee, has conducted extensive research into the scheme in Italy, which has been running for 25 years. Everyone between the ages of 12 and 35 has to undergo medical testing and screening, whether they are participating in sport as a professional or an amateur.

As I said earlier, perhaps the most significant piece of evidence to come out of the scheme is that, during that 25-year period, the annual incidence of sudden cardiac death has fallen by 89 per cent. Meanwhile, in the older population, the incidence of sudden cardiac death has remained constant. It is clear that the screening process in Italy has saved numerous lives, which is why we think that it should be adopted here. The Italian national health service pays for any young person under the age of 18 to be screened, and clubs or teams are legally required to pay for the screening of their members who are over 18. The estimated cost of the process is €30 per athlete—I do not know what the exchange rate is at the moment.

**The Convener:** Our papers indicate that the National Screening Committee is unconvinced—to speak euphemistically—about whether a national screening programme should be adopted. How could that view be changed? Is there anything that we could do to show that such a scheme is worth having?

**Graeme McIver:** Scottish HART would like to bring the National Screening Committee's attention to the fact that there has been an 89 per cent reduction in sudden cardiac death in Italy as a result of that screening programme. We are aware that there has been some debate about how successful screening would be, but that figure shows that it can save young people's lives, which is what this charity—and, I am sure, everyone in Scotland—wants to do.

**The Convener:** Is it beyond us, in a relatively small country in which a fair amount of gross domestic product is spent on health services, to provide an MOT that would include the heart

check that you have been campaigning for as part of a broader assessment? The vast majority of our children go through 16 years of pre-five provision, primary school and secondary school. It seems daft that we have youngsters in our school system for 16 years but do not carry out any reasonable MOT check on them to pick up problems early or to make them more able to deal with things should they want to make different lifestyle choices and decisions about activities and so on. A health check early on could perhaps prevent them from getting into ill health. I wonder whether we can raise the debate to that level rather than just react—understandably—to the tragedies that Wilma Gunn and other mothers have confronted over the years with the unexpected loss of a family member.

**Graeme McIver:** There is no MOT check of youngsters in our schools up to the age of 16 although, given Scotland's health in general, perhaps we should have done that over the past 20 years to protect the health of our young people. A screening programme would check every child.

One of the problems that Scottish HART has faced in trying to find figures for the incidence of hypertrophic cardiomyopathy is the fact that no such figures exist—there are none at all that we can quote to you. I have here a journal in which Dr Perry Elliott, a senior lecturer and consultant cardiologist at the Heart hospital in London, says that perhaps one person in 500 has hypertrophic cardiomyopathy. However, without screening, we do not know that for a fact—we just do not have the figures. Several senior medical people have told us that we do not know what the figures are.

Screening would have other benefits as well as allowing us to see those figures. It would tell people whether they were at risk from the condition. In the Italian project, 9 per cent of the athletes who were screened were referred for further checks. Of that 9 per cent, only 2 per cent were diagnosed with a serious heart condition. Screening would be worth while and would have a spin-off benefit for the health of the children of Scotland far beyond identifying whether they had a serious heart condition.

**Wilma Gunn:** When their son or daughter dies, a lot of mothers and fathers get the feedback that it was a sudden death, but that is not a condition. There needs to be an education programme for doctors and for education departments, so that there is awareness of how heart disease can affect a child. We do not have the figures, and it is wrong that the condition is not being identified to families as it should be.

The problem with cardiomyopathy is that it can miss a generation and come up in another. Also, one screening is not enough if the condition is in a family. A baby can have a heart murmur that

leaves them but then comes back in their teenage years. Screening in their teenage years, before they went into competitive sport, might find that the condition that had left them had returned.

**Nanette Milne:** Graeme McIver mentioned the pilot study that is being carried out at Hampden. Do you know how that is progressing? How long has it been on the go?

**Wilma Gunn:** The other day, I received an inquiry from a rugby club in the Borders area that wanted to have screening done. It asked whether I could help. The club has 17 young boys who have decided that they want to be screened, but they are not sure what is being done at Hampden. I support the study and Professor Hillis wholeheartedly, but we should know what procedure to follow if a club contacts Scottish HART. How do we refer them to get the screening done? All clubs ought to have screening done. Is the Scottish Rugby Union included in the study along with the Scottish Football Association? I do not know.

15:15

**Graeme McIver:** It would be fair to say that we are waiting for a bit more information about the scheme, which Nicola Sturgeon announced in about the middle of April. It is not long since the announcement was made, so the detail is thin. However, we know that the plan is that the scheme will be for young people over the age of 16 who are involved in amateur sports. We welcome that as a move forward, but we believe that the focus is far too narrow; it should be much more all encompassing.

**The Convener:** I have a suggestion on which it would be useful to hear your observations. The two dominant participatory sports are rugby and football, with athletics and a number of other activities following just behind. Given that community clubs are linked to the training programmes of professional and semi-professional clubs, it would make sense to provide regional opportunities for screening. If regional and cottage hospitals could provide screening, that would avoid 17 boys from the Borders having to travel up to Hampden stadium to be screened. What is there to prevent that?

In the exceptional circumstances in which a particularly fit young man or woman passes away unexpectedly, that is a shock, given their lifestyle, but there will be many youngsters who might not be ready to take part in sporting activity. They might make themselves vulnerable if they participate in physical education or physical activity of any kind without first being properly screened. Do you want to comment on the desirability of creating a more effective national



structure, to which members of communities could plug in at local level, where appropriate?

**Graeme McIver:** Certainly. The petition calls for a national screening council to be set up to oversee the whole project. We would like health boards to work with one another. The programme should be accessible, given the number of young people who belong to sports clubs and youth clubs or who play sport, from the Shetland Isles and Orkney to the Borders and Dumfries and Galloway. If there is just one centre in Glasgow, the programme will not be very inclusive. We would like it to be spread throughout every health board region in Scotland.

**The Convener:** Do members have any other comments or questions?

**John Farquhar Munro:** It is an interesting discussion. The programme would be highly effective if it could be implemented. How could it be implemented in remote rural areas where there are no clinics or sports facilities, just wide open spaces? How could we look after energetic and athletic people in those areas?

**Graeme McIver:** One of the main aims of Scottish HART over the 11 years of its existence has been to raise funds to supply a mobile screening unit—in fact, we would like to supply a number of mobile screening units but, as you can imagine, they cost a lot of money and have to be staffed by health professionals.

It would be better for someone with a medical background to say this, but initially people could just have an electrocardiogram to check their heart rhythms, which would not involve a huge amount of equipment. ECG equipment could be transported to a remote location pretty easily—people would not have to travel hundreds of miles to a big hospital with a huge scanning machine. Such screening could be done relatively easily; it is just that it would involve a huge financial commitment.

**John Farquhar Munro:** At what age would children be tested? Are we talking about primary school age or secondary school age?

**Graeme McIver:** The Italian system deals with kids of 12 and upwards. As I explained, cardiomyopathy tends to manifest itself during puberty, when the body is growing the most. We would like screening to be available to children from the age of 12.

Wilma Gunn suggested that I mention my own case. I was recently diagnosed with hypertrophic cardiomyopathy, and I have four young children. Thanks to a good relationship with the doctor and the health board in the Scottish Borders, we were able to get our kids screened at the sick children's hospital in Edinburgh. I do not know whether that

facility is available across the country; we would certainly like that to be the case. The Italian scheme that has proved so successful is for children of 12 and upwards.

**John Farquhar Munro:** If a screening unit visited every school, that would achieve most of your aims.

**Graeme McIver:** It would be great to have that. We would need several screening units in order to visit each and every school.

**Wilma Gunn:** To start with, getting the numbers of families at risk and children taking part in competitive sport is a must. On whether it is viable to screen everybody, if something is picked up by the doctor, the person is referred and they may be found to have cardiomyopathy or long QT syndrome—another condition that gives no outward sign of the cause of death—but unless the rest of the family is screened, you have nothing to go on. Screening is a must for families at risk and children who take part in competitive sport.

**The Convener:** There appear to be no further questions from members. Your concluding point, Wilma, is the right one. The snapshot issue is the lack of data—a prevalent problem that arises when the committee deals with health issues—and I think that members would concur that we are not tracking things enough, as your petition highlights.

A second issue is about identifying the risk categories to try to reassure those in the health service with responsibility for budgeting when we say that we needed X amount of money—without giving them a heart attack. If we can say, "Look, we can get this, this and that group cleared," at least we would be targeting a substantial number of people at risk. The ideal model is the one from Italy about which Graeme McIver spoke. However, that requires further input. We need to explore some of the issues with the relevant ministers and officials.

**Nanette Milne:** It is clear that the Italian model is a good one, but the petitioners mentioned that other European countries are running similar programmes. It would be useful if we could find out what is happening in some of those other countries too.

We need to have an update from our own Government about how the pilot scheme in Hampden is developing. Sportscotland could also have an input and we need to find out about the National Screening Committee's latest thinking on the matter.

**The Convener:** It would be useful to have that information. I presume that Professor Hillis is unavailable because of other pressing national team commitments. I wish the Scottish team good

luck in the friendly—if we have a team left to put out, given the number of folk who have been withdrawn. I recognise that Professor Hillis has other professional duties this afternoon, but it would be useful to get a sense of his thinking.

My son plays sport—we are only 5 or 6 miles away from Hampden, so that is great for us. However, if we lived in Dumfries and Galloway or Skye, attending the screening centre at Hampden would not be an option. Let us see what is happening there, but let us also find out whether similar schemes might be rolled out.

**Nigel Don:** I want to jump from the particular to the general. These good folk with us today have spoken about a couple of specific conditions, which are of course important to them and should be important to us. However, I wonder whether we should ask the health secretary to give us the rationale for the lack of screening of children in general and, at the same time, ask her to consider whether we should screen for other conditions. It sounds as though we are just not doing that screening. People would not treat their car in that way so why on earth do we treat ourselves like that?

**The Convener:** I think that we cut across Wilma Gunn earlier. Did you want to say something else?

**Wilma Gunn:** Most of us here will have had medicals at school, but no one has had a medical on leaving school in the past eight years unless they were going into a business or university course for which they needed such examinations. That is wrong because a lot of children out there might not know that they need glasses, hearing aids or whatever.

We spoke earlier about the journal in which it was said that one person in 500 has hypertrophic cardiomyopathy. The National Screening Committee decided that that outcome was flawed and that the numbers were not correct. If we were to work with health boards to find out how many people with heart conditions are out there, that would be a start.

**The Convener:** I do not know what you were like as a child, but I would have much preferred a health check than a BCG any day of the week. It took them three attempts to get me to have it.

It would be useful to distil Graeme McIver's and Wilma Gunn's points. I should explain that we will then explore the petition with organisations such as health agencies and with the responsible minister. We will find out where they are on the matter at the moment, distil that information and then come back to the committee. The petitioners will be given clear information about that process. We will give them a transcript of this discussion and highlight the three or four key points that committee members feel most strongly about to try

to get some further clarity. I hope that we will then start to make progress on the issue. The condition gets publicity because of the high-profile individuals who have lost their lives, but lots of mothers and fathers out there have lost loved ones unexpectedly when the condition could have been picked up through some of the screening models that the petitioners have identified.

Does Wilma Gunn want to add any final words?

**Wilma Gunn:** The petition has more than 4,000 signatures. Most of those people want to correspond with me so I will have a shorter hand the next time that I come if I write to everybody involved.

**The Convener:** We can certainly make sure that your comments are on the record so that you can refer anyone who contacts you to the *Official Report* of the Scottish Parliament via a web link. You can liaise with our clerks on how best to do that. You are taking on a big burden in responding to all the concerns raised by individuals who have gone through the same experience as you have.

With Nanette Milne's and others' support we can try to make progress on this important and difficult issue that you have had to confront. Thank you for your time.

15:26

*Meeting suspended.*

15:37

*On resuming—*

### **Closed-circuit Television Provision (PE1152)**

**The Convener:** Let us get the show back on the road. I thank our next petitioner for being so patient. We have had a long shift this afternoon, but we do not often get the chance to take evidence from Government ministers so our meeting has gone on a wee bit longer than normal.

PE1152, from Robert Kyle, calls on the Scottish Parliament to urge the Scottish Government to allocate funding for the provision of permanent closed-circuit television facilities in communities that are subjected to significant levels of crime. Robert Kyle will have seen the format already, so I ask him to make an opening statement, after which we will go straight to questions.

**Robert Kyle:** I do not have an awful lot to add to the detail that I have already supplied along with the petition.

I am here on behalf of residents of the east end of Greenock, who have requested the erection of

CCTV cameras in their community due to the high levels of recorded crime. The community asked the local council to erect CCTV facilities in problem spots, but that request was refused solely because no funding was available. Understandably, that caused a high level of frustration. People were unwilling to accept that excuse, as it would mean that they would need to live without the protection that CCTV camera coverage would offer.

We did a wee bit of research that confirms the Parliament's previous research on the issue, as it indicates that the erection of cameras can be expected to increase the crime detection rate by somewhere in the region of 16 per cent. To put it simply, that is what the community is looking for. However, CCTV coverage is not currently being provided due to a lack of funding.

An overriding issue is that, if funding is made available by the Parliament making whatever changes are necessary, community councils and the communities that are affected by crime must be directly involved in the decision-making process on whether the cameras should be erected. The communities ask that they be involved in the decision-making process.

**The Convener:** Interestingly, the debate around CCTV cameras appeared as a front-page feature in one of Scotland's national papers this week, so this is an appropriate time for the committee to consider the petition.

Do committee members have any immediate questions?

**Nigel Don:** Good afternoon and thank you for waiting. Can you give me a clue—forgive me if this is in our papers, but I do not think that it is—how many CCTV cameras would be needed to cover the area that we are talking about?

**Robert Kyle:** In the area where I live and which I am representing today, we have not done a study of how many cameras would be needed, but the community would probably say that cameras should be put up all over the place. In general terms, I think that we are looking at erecting three cameras in the community.

Our request would not require a high level of funding. The funding per camera would be £35,000 for the hardware and £2,000 for the annual running costs. Comparatively speaking, I think that the cost of one camera is not high. We wanted three cameras to be erected at focal points throughout the community. Obviously, not every area could be covered by a camera, but we identified three points where anyone entering or leaving the community would be caught on camera. To make the request reasonable, we suggested that allocating three cameras would deal with the problem.

**Nigel Don:** Forgive me, but the geography of Inverclyde is beyond me—I am an east coast man. If we could magic up funding to put up the cameras, where would they be monitored?

**Robert Kyle:** They would be monitored by the local police control room, which is run jointly by council and police personnel.

**Nigel Don:** Does the control room already deal with other CCTV cameras?

**Robert Kyle:** After a long exchange of letters, the information that filtered through was that Inverclyde Council's control room is running at maximum capacity. The control room has 50 screens that are monitored by two personnel. The council said that it would not provide funding for additional cameras because that would require the facilities to be expanded. For that reason, our request was stopped at that point.

**Nigel Don:** If we take that at face value—I am in no position to disagree with it—the argument is about capacity. If the control room had not been at capacity, would there have been far less resistance to erecting a few more cameras?

**Robert Kyle:** Absolutely.

**Nigel Don:** So the system is at break point, where someone needs to decide whether to spend significant amounts of money to install more cameras.

**Robert Kyle:** Yes.

**Nanette Milne:** Do we have any idea of what such an expansion of capacity would cost?

**Robert Kyle:** The council said that it would run a full cost benefit analysis, but we still await the results.

**Nanette Milne:** When are the results expected?

**Robert Kyle:** The council has not made any declaration on that.

At the moment, the council has provided two additional mobile CCTV facilities. However, the general feeling is that that is not what the community wants. A mobile camera cannot be positioned at a point where it will capture all the problems. Mobile cameras also have operational issues, given that a lot of crime happens late at night. Basically, the community is saying that it wants permanent, fixed cameras that run 24 hours a day and which are located in positions where they will catch offenders. I say that because, for a period of about two years, the east end of Greenock experienced high levels of crime and vandalism. According to the police crime figures for Inverclyde, 20 per cent of all crime is vandalism. Because of the nature of the crime, it is very difficult to catch someone committing an act of vandalism—the police would need to be at the

place where the act was being committed. Cameras can assist the police.

15:45

**Nanette Milne:** It would be interesting to find out the results of the assessment. I have been to a CCTV control room in Aberdeen. Looking at the screens is an intensive occupation, so it might be costly to expand the number of personnel who are involved.

**Robert Kyle:** Sure.

**Angela Constance:** I understand entirely the desire for CCTV facilities. You touched on why your community wants permanent as opposed to mobile cameras, but would permanent cameras meet your community's needs once offenders knew where they were sited? Have you thought about that? I am thinking about hoodies using their hoods. Would the installation of permanent cameras simply result in problems being moved elsewhere? Are the police in the local area for or against permanent cameras?

**Robert Kyle:** The police have certainly raised the issue. They talk about dispersing trouble and dispersing groups of youths. A good case could be made that offenders will look out for cameras and avoid them; that will always happen. That said, there is the same problem with mobile cameras. Youths who break the law or cause problems will quickly identify vehicles that are being used to carry cameras. As soon as those vehicles come on the scene, such youths will stop doing what they are doing or move elsewhere.

A study of the use of CCTV surveillance cameras in Airdrie town centre has been carried out. Cameras were erected and the police monitored what happened over two years. They found that there had been a 16 per cent increase in the crime detection rate. Even though it could be argued that there is no point in putting cameras up as criminals will know where they are, the detection rate went up. Some people will indeed prefer to be elsewhere if there is a camera in place, but the other side of the argument is that offences will be captured.

There was a high level of frustration in the community in Greenock. People expressed their concerns to the police and their wish that crimes be dealt with. The police's advice to them not to take the law into their own hands was met with disdain. People do not want to take the law into their own hands and they certainly would not do so, but they expected measures to deal with crime to be put in place. The measures that existed, such as putting policemen on the beat, simply did not deal with the problem or cause it to go away. The final feeling was that cameras would not provide a 100 per cent solution to the problem, but

they would be a good step on the way towards solving it.

**Robin Harper:** I have a small point of clarification. I got the impression from what you said earlier that you think that a significant proportion, or perhaps even a majority, of vandalism crimes in your community have been committed by people from outwith it. I got the impression that people are coming into the community, vandalising and causing problems and then leaving.

**Robert Kyle:** I believe that that is happening; youths are coming into the area, causing problems and then leaving. It is the Friday-night syndrome. Underage youths are getting alcohol and going to meet their friends. In doing so, they pass through neighbourhoods such as ours in the east end of Greenock, and that is when much of the crime takes place. Going from point to point, youths pass through communities and vandalise cars and intimidate residents. The weekend is obviously the peak time for that.

**The Convener:** Would your concerns not be better addressed by an enhanced police presence and a better policing strategy for the neighbourhood? Would that not be better than a technological solution?

**Robert Kyle:** As a result of all the problems, more beat policemen are in the area. If beat policemen are walking round areas that they have not walked round before, or if they are walking round more often, they can deal with particular problems and can disperse the people causing them. The general feeling among residents is that that is fine while the police continue to do it; if you are suggesting a permanently enhanced police presence, I would agree that that would help considerably. However, putting a beat policeman on for three or four weeks or a couple of months and then taking him off does not offer a long-term solution. That is the feeling in the community.

**The Convener:** The deputy convener wants to ask a question, but I ask him to let me ask another one first.

In my area in the east end of Glasgow, an enhanced policing plan has offered more systematic support, rather than offering a wee flurry of activity at the weekends, which gives reassurance for only a short period. Where police shift patterns have changed, where the police have gathered more information about hot spots, and where the police have worked in collaboration with housing departments, housing associations and other partners and agencies, there has been a material shift in people's experiences. Fundamental safety concerns still exist, but it seems to me that that model of policing is worth exploring. I am in favour of CCTV but, on balance,

I would much prefer to have the policing model that I have just described. How would people in your community feel if such an option were offered to them?

**Robert Kyle:** I am not saying that the community would not be happy with that or consider it. Any additional support would be fine.

I do not want to be in any way derogatory about the police, because they do an excellent job. However, the major problem—now as in the past—is that intimidation and crimes such as vandalism take place and, by the time the police or the authorities get there, the damage has been done and the culprits are away.

Of the 100 residents who were surveyed, 99 said that they were in favour of cameras and one said no, on the ground that it was an invasion of privacy. The general feeling was that cameras would definitely be a step towards dealing with the problem.

**The Convener:** John Farquhar Munro has been very patient.

**John Farquhar Munro:** Good afternoon. When a CCTV scheme is proposed in any locality, who is responsible for the initial funding?

**Robert Kyle:** As far as I know, it is the council.

**John Farquhar Munro:** Do the police contribute?

**Robert Kyle:** I believe that other bodies contribute a percentage, but I do not think that those contributions alone would be sufficient to fund the projects.

**John Farquhar Munro:** In your experience, have you found that there is co-operation between the two departments? If the local authority is going to put in more CCTV cameras, that will load more on to the constabulary. Is there an argument there?

**Robert Kyle:** The mechanics of it are such that funds probably come from various sources; it could be argued that that is as it should be. The feeling behind the petition is that the communities are not bothered where the funding comes from. All that they are concerned about is that the funding is there. If the crime figures show a regular and persistent level of crime, where the money comes from or whether it is available should not be an issue. For statutory reasons, the local authority should make money available and, when it does so, the communities that are on the receiving end of crime should be part of the decision-making process. It should not be a case of the local authority saying, "Sorry, you didn't get cameras because we decided that they would be better somewhere else." That is not acceptable to the communities that are experiencing crime week

in, week out. They want to be part of the decision-making process and, if funding is available but a decision is made not to provide the cameras, they will want to know why.

Communities' involvement is minimal at the moment, even through the community council. A vehicle or mechanism needs to be put in place so that members of the community who are directly affected can become part of the decision-making process.

**John Farquhar Munro:** The evidence that you have gathered suggests that crime figures fall after cameras have been installed, so they are effective at reducing crime levels. Because of that, there should be a cost saving to the local authorities and constabulary. The cameras have been doing some of the work of reducing crime and vandalism and other things that add cost to any community. There could be a massive saving at the end of the day.

**Robert Kyle:** Absolutely.

**Bashir Ahmad (Glasgow) (SNP):** When I became a councillor in the Pollokshields area of Glasgow in 2003, there were a lot of demands on me to get CCTV cameras into the area. I have been living in that area for a number of years and I know that the people living there are good people but there are some troublemakers.

I worked to get the CCTV cameras and I was very fortunate to get them in my area. I got money from Communities Scotland, Glasgow City Council and housing associations. The money was arranged and the cameras were installed. Since they were installed, crimes and the fear of crime have more or less gone. The cameras are very effective. I would rather have police on the beat than CCTV cameras, but it is not possible nowadays to get enough police officers on the beat. CCTV cameras work; they worked in my area, and if they can work in my area, they can work in your area too. I am in favour of them; they are very welcome.

**The Convener:** One of the issues is the change in resource distribution. Local authorities have argued that there were too many specified issues, or too much of what local government jargon calls ring fencing. That is how money was allocated to local authorities for CCTV cameras. Money for cameras is now part of the broader grant to local authorities. How do you view that direction of travel? Will local authorities be able to meet the costs of CCTV from existing resources? Could they have difficulty in coping with the demand for CCTV in communities?

16:00

**Robert Kyle:** That is a difficult question to answer, because we do not know exactly what level of demand for CCTV exists; demand could also change. The issue is fundamental to the petition. I approach it from a personal and community point of view. Communities would prefer councils to have to provide funding for CCTV cameras and for there to be a certain allocation per annum or over a three-year period. If figures show that over two years there is a persistently high level of crime in a community—I am not talking about problems that appear overnight—that community should not have to negotiate or to struggle with funding issues.

I do not know what arrangement the Parliament will work out. The plain and simple fact is that communities are asking for the facility to be provided where crime figures indicate that a problem exists. Where the money comes from should not be an issue. CCTV should be available, provided that communities want it. If a community says, “Thanks, but no thanks,” to the offer of CCTV, because it does not want cameras to go up, that is fine—it is the community’s choice. However, if people say that they have had enough and want cameras to be installed, and their request is backed up by crime figures, there should not be a problem.

**The Convener:** We have explored some of the key issues related to the petition. How would members like to proceed?

**Nanette Milne:** It might be useful for us to find out from a selection of local authorities how they are going about funding cameras in the new situation.

**The Convener:** That would be helpful. We could ask whether the issue is addressed in outcome agreements, which are part of the current debate.

**Nanette Milne:** Inverclyde Council could be one of the local authorities to which we put that question.

**The Convener:** Yes. I understand why the petitioner is concerned about how directive outcome agreements will be in the allocation of local authority budgets, given that the aim is to allow for discretion at local level. Local government has certain statutory responsibilities and a multitude of options for discretionary spending. If councils are instructed to fund the provision of CCTV as the petition suggests, they will have less discretion. We need to explore the issue with appropriate local authorities and to get COSLA’s view on it. We need to separate the demand of communities to feel safer, of which CCTV may be one element, from the issue of whether prescription is necessary, so that provision kicks in automatically when crime stats

reach a certain level. Both local police boards and community safety partnerships may have a more detailed view—not necessarily a more informed view, although I would like it to be—on the issue. Let us explore that in relation to the petition.

**Nanette Milne:** It would be interesting for us to find out the running costs of CCTV, in both finance and personnel, in various areas.

**The Convener:** We can seek information on both capital and on-going annual costs.

The petition is at the same stage as many others—it has been presented to us and the petitioner has had a chance to express his views on it. As I explained to previous petitioners, we will distil the information that we have received, identify a number of key themes that emerged in the question-and-answer session, explore them with other agencies and report back to the committee on them. The petitioner will be kept informed of developments. As a member of the public, he is entitled to come back to hear any future discussion of the petition.

**Robert Kyle:** Thank you very much.

**The Convener:** Thank you for your patience. It has been a long session, but we will press on.

### Medical Records (Destruction) (PE1141)

**The Convener:** PE1141, by Myles Fitzpatrick, calls on the Scottish Parliament to urge the Government to consider whether it is satisfied with the policy and guidance that are issued by it under which national health service boards may destroy a patient’s medical records and whether that policy in any way hinders the right of an individual whose records have been destroyed to access medical treatment on the NHS.

The petitioner raises an important issue. We have all had to deal with constituency cases in which individuals’ records have not been kept appropriately, which has thrown up difficult issues for those individuals. Do members have any views on how we should pursue the matter?

**Robin Harper:** There is no question but that the matter needs to be taken a bit further. We should seek clarification from the Government, although I am not sure which way round to do things or whether to do everything at once. I recommend that we write first to a selection of NHS boards, to seek their views on the experience of the petitioner and others who feel that their records have been destroyed prematurely.

**Nigel Don:** It may be pure naivety on my part, but it is not obvious to me why anybody would want to destroy a medical record. It sounds like a rather important document. If somebody has given their professional skill and time to examine me and

form a view about me, why should that record be binned? I do not see an obvious answer to that question.

**Nanette Milne:** I suspect that it is a question of logistics. I know that forms of record keeping have changed, but old-fashioned medical record departments are enormous. The issue is serious. If the Government is considering publishing further guidance, it might be worth writing to ask what proposals it has in mind.

**The Convener:** I would have thought that records could be lost through neglect and through change in organisations—shifting between buildings and all that kind of stuff—although some records may be wilfully lost. Three things are worth exploring: first, the context in which records can be no longer kept; secondly, what authorisation is given for the destruction of records; and, thirdly, whether patients' ability to access NHS treatment is dependent on the availability of their records. We need to explore those areas a wee bit further.

As has been suggested, we can write to health boards to get a snapshot of where they stand on the issue. I do not know whether there are any legal eagles on medical rights issues to whom we could write for their views.

**John Farquhar Munro:** The legal anomaly in this case was the fact that the court refused to accept the case because it was not signed by the individual. That issue has since been resolved.

**The Convener:** Okay. Perhaps we could approach NHS Quality Improvement Scotland. There is a legal process involved, which I am not an expert on. It would be useful to find out a wee bit more information on that.

**Robin Harper:** I take up the point that Nigel Don made. There is a clear conflict between the keeping of medical records for the sensible reason that they are detailed, complicated documents that can be useful and the requirements of the Data Protection Act 1998. Medical records are kept in a number of different forms, and the longer that the records are kept, and the greater the number of forms in which they are kept, the more vulnerable they become. Some boards may take the view that, because of the requirements of the 1998 act, they should destroy the records when there is no clear further use for them. That conflict exists.

**John Farquhar Munro:** The problem is not that records were lost, but that they were destroyed. There could be an excuse if they were just missing or lost, but agreeing to destroy them is a different issue.

**The Convener:** Members have made suggestions on how to explore the issue a wee bit further. Are we happy with those suggestions?

*Members indicated agreement.*

### **Court of Session (Right of Audience) (PE1157)**

**The Convener:** PE1157, which is also by Myles Fitzpatrick, calls on the Parliament to urge the Government to abolish rule 4.2(5) of the rules of the Court of Session, concerning rights of audience, to allow individuals to conduct litigation without legal representation, and to consider whether the rule is contrary to article 6 of the European convention on human rights, on the right to a fair trial. Background information has been provided to members. Are there any views on how we should deal with the petition?

**Angela Constance:** The background information that the researchers have prepared states that, under rule 4.2(5), a case could proceed without the relevant signature, contrary to the statement in the petition. That leads me to conclude that we should close the petition, as I am not sure what we would gain from further inquiry on it.

**Nigel Don:** My reading is even stricter than that. I am grateful to have the notes on the petition. The rule, which is quoted in the background information, is that the lord ordinary can make a decision and that his decision is final and not subject to review. If that applies, the decision is not subject to review by us, full stop. The petition is an attempt to appeal such a decision through the back door. It does not matter which back door is used, the answer is that the decision is not subject to appeal. Certainly, we should not open the parliamentary door for that.

**The Convener:** We have a recommendation to close the petition on the grounds that were articulated by Angela Constance and amplified by Nigel Don. Are members happy to close our consideration of the petition on those grounds?

*Members indicated agreement.*

### **Disabled Parking (PE1149)**

**The Convener:** PE1149, which is by Kenny Shand, on behalf of Disability Help Scotland, calls on the Parliament to urge the Government to introduce legislation to allow parking bays for disabled drivers with mobility impairments—for example, outside a person's home—to be allocated to the person who makes the application and for such bays to be legally enforceable. Similar issues have been raised with us in the past and we have probably all dealt with such issues as elected members. The petition is fairly self-explanatory. Are there any strong views on how to deal with it?

**Nigel Don:** I am not sure how to deal with the petition, but I have a comment that goes back to the days when I had a council ward. Getting people a parking bay was relatively straightforward, and everybody understood why one was needed, but the difficulty was getting rid of it afterwards. I am worried that, if we have parking bays that are accessible to only one person—and therefore, I presume, to one car, the number plate of which will have to be identified—when people move on, cease to use the car or, in time, pass on, there will be spaces on the road and nobody will know quite what to do with them. I make those comments merely to give the other side of the argument, from a local councillor's perspective.

**Angela Constance:** I am all for more disabled parking bays and for enforcing the rule that the bays should be used by people who have a disability and who need them. I would welcome anything that the committee can do to further that cause. However, like Nigel Don, I am not sure about the logistics or the legalities of designating specific parking places on public roads for individuals. Issues arise about that.

**The Convener:** We should write to the Government and a cross-section of local authorities or COSLA. I compliment the clerks on suggesting the most appropriate organisation to contact: the Baywatch campaign—members may well get some interesting responses if they try to find the website for that. It would be useful to get a view from all those organisations on how we can deal with the matter. Too many individuals with disabilities cannot get access to a proper parking bay in too many parts of Scotland; there seems to be no sense that they have any rights in that regard. We will explore that and respond to the petitioner in due course.

### **Palestinian People (Rights) (PE1153)**

**The Convener:** PE1153, which is by Gerald Quin, calls on the Scottish Parliament to urge the Scottish Government to make representations to the United Kingdom Government, inviting it to apologise to displaced Palestinians for the actions of Arthur Balfour and to promote early implementation of United Nations general assembly resolution 194 of 11 December 1948 to secure the Palestinian people's inalienable right to live in peace and security in any part of its historic homeland.

I declare an interest, in that I am a member of the cross-party group in the Scottish Parliament on Palestine. Do members have any comments on the petition?

16:15

**Nanette Milne:** Do we have any locus on it at all? It strikes me that the matter is reserved and I am not sure that we should be involved in it.

**The Convener:** We have been through this with a number of petitions. We have no responsibility for the matter, but the petition is crafted intelligently: it calls on the Parliament to urge the Scottish Government to make representations to the UK Government, inviting it to apologise. That gets round the framework that we have in the Scottish Parliament.

**Angela Constance:** I have my political affiliations and, although I would like the Scottish Parliament to have grander powers, that argument will not be fought and won or lost in the committee; it is for the wider political arena and civic Scotland. For me, the committee is about what we can achieve for the people who cross our path, and I would much rather focus on issues on which we have some prospect of achieving an outcome. Today, we have heard petitions about fire services, community safety and heart screening. It is not that I am unsympathetic to the petition but, with the best will in the world, I am not sure what the committee could achieve on it. With respect, I propose that it be closed.

**Robin Harper:** I have an interest as a member of the cross-party group on Palestine but, regretfully, I back Angela Constance's view. We are a Public Petitions Committee working pragmatically on things that we can do in Scotland. We clearly do not have a locus on the matter, as we have no foreign policy powers. The petition has made its point by being lodged, and we should be content that that point has been made.

**Bashir Ahmad:** The situation has been going on since 1948; that is a very long time. I do not know how and when it will end, but we should do our best to get the problem settled. I am in favour of doing whatever we can to settle it. It has been going on for 60 years or so, which is far too long.

**The Convener:** There is no lack of sympathy in the committee for the conjoined issues of a resolution to the persistent problem in Palestine and the security of the state of Israel, but there is a difficulty with the process that the committee has for dealing with them. We could acknowledge the petition and close it on the ground that responsibility for the matter lies with the UK Foreign and Commonwealth Office, but draw the Government's attention to the fact that we have received it.

That might address some of the concerns. There is not a lack of recognition of this difficult issue. There are complex issues, which even members round this table with negotiating skills would find it



a challenge to overcome. We need to know that others have the responsibility.

On balance, I think that we should close the petition. However, there is an opportunity for Scottish Government ministers to raise the issue in bilateral discussions if they think that that is appropriate. Is that okay?

**Members** *indicated agreement.*

### **Inheritance Law (PE1154)**

**The Convener:** PE1154, by Mary McIlroy Hipwell, calls on the Parliament to urge the Government to amend the Succession (Scotland) Act 1964 to allow a person in their will to leave their whole estate to a surviving spouse or civil partner and to abolish the right of adult children to claim on that estate. Those of us who are parents worry when we see these legal minefields. Given that the Scottish Law Commission is exploring the fundamental point of the petition, I do not know whether it is appropriate for us to deal with it now. Perhaps we should wait until the commission has published its report on succession, which would give us background information. I do not think that it is fair on the petitioner for us to have a discussion about something that we know that other bodies are considering in detail. It would inform our discussion if we knew the outcome of the commission's deliberations. On that ground, although the petition is in the system, I suggest that we suspend consideration of it until the commission has reported. Is that agreed?

**Members** *indicated agreement.*

### **Young Offenders (PE1155)**

**The Convener:** PE1155, by Elizabeth Cooper, calls on the Parliament to urge the Government to amend the law to ensure that young people aged between 10 and 18 who are charged with serious offences are tried by the criminal justice system, rather than the children's hearings system. This issue undoubtedly features in public discourse. I seek members' views on the petition.

**Angela Constance:** To be blunt, I am not overly sympathetic to the petition. In a former life, I was a prison social worker, and we encountered young people who arrived in Perth prison subject to unruly certificates and other legal provisions. In my view, there is ample scope to deal with young people in the criminal justice system. When a child or young person commits a serious offence, they are dealt with in court. It is not unknown for 14-year-olds or 15-year-olds to be subject to High Court proceedings. I do not see the merit in pursuing the petition further.

**Nigel Don:** We have a simple choice. Do we believe that the current system, whereby the Lord

Advocate has discretion, which is exercised by her staff, is reasonable? If so, I suggest that if the system ain't broke, we don't need to fix it. If we do not believe that continuing with the current system is the right way forward, we have to investigate alternatives.

**The Convener:** My difficulty is that, although I understand Angela Constance's take on this, I know from local experience that there is genuine concern about certain behaviour by young people. Some people feel that individuals can act without intervention by the system, so they do not have confidence in it. The issue is not whether there is a willingness by professionals to intervene—I am sure that there is—but whether that is sufficient, given the nature of the offences in question. I want to explore some of the issues further, but other members of the committee might think differently. I would like to hear what members think before we reach a conclusion.

**Robin Harper:** I served on the children's panel for three years. More serious crimes were dealt with in a different way. If the crime was serious, the young person involved would not be allowed to admit it to the panel. The case would go to court, but the young person could still come back to the panel for disposal, and there would be a discussion about the best way forward. In other words, having been tried and found guilty in the mainstream justice system, the young person would not necessarily be sentenced to incarceration, but would come to the children's panel for different kinds of disposal, taking into account the interests of the child.

The matter is covered by how the current system works. If the petition said that the young person in question should not come back to the children's panel, I would disagree—it would have to be discussed. The children's panel is the appropriate place to work out the best thing to do for a young child who has got into serious trouble.

**The Convener:** We have a profound disagreement on the direction in which to take the petition. I am reluctant to close it. I am sure that all members are sympathetic to the personal testimony that it contains; I have no doubt that the woman in question was deeply affected by the circumstances surrounding what happened to her son. Her sense is that the justice system ain't intervening enough to send a strong message to those who attacked her son.

I acknowledge that there has been a debate about the children's hearings system in the recent past. It might be helpful to explore a few issues further. We might arrive at slightly different conclusions, but in terms of being reasonably fair to the petition, that might be worth while. Strong views have been put across from two different perspectives.

**Nanette Milne:** I am not particularly knowledgeable about the issue, so I do not have a strong view either way. However, I see no harm in exploring things a bit further, particularly with regard to finding out what Victim Support Scotland, the Crown Office and Procurator Fiscal Service and the children's reporter think about the issue.

**The Convener:** The petition asks about whether people should be tried by the criminal justice system or the children's hearings system. It is probably worth exploring a third option, with regard to the nature of the procedures that can be undertaken through the children's hearings system and consideration of how young people are developing, to try to intervene in their behaviour rather than throw them into the criminal justice system so dramatically.

I do not have a social work background, but I imagine that the Social Work (Scotland) Act 1968 is based on the philosophy of trying to address such issues. The option towards which most of us, as committee members, probably lean is not really contained in the language of the petition, which forces us into an aye or no position.

**Robin Harper:** A compromise position would be to keep the petition open until we have heard the results of the review of the children's hearings system. That might be sensible—we can see what happens from that. You never know—the petitioner might be content.

**The Convener:** Is our position that we are waiting for the review process?

**Robin Harper:** The review has not started.

**The Convener:** I do not disagree with the suggestion. The issues are complex, and the reality is that the individuals who were involved in the situation that the petition mentions will have been dealt with through the existing system.

It might be worth showing people that the present system did not respond to the situation in the petition in a way that gave the mother—and others who are in similar situations—a sense of fairness and satisfaction. Would it be helpful to defer consideration of the petition?

16:30

**Nanette Milne:** Would it possible for the committee to refer the example in the petition to the review as evidence?

**Fergus Cochrane (Clerk):** I am not sure whether the terms of the review and precisely what it will consider have been announced, but we could investigate whether it would be appropriate for a copy of the petition to be fed in officially for consideration as part of the review. Obviously, the

petition would still be within the ownership of the committee.

**Angela Constance:** I have fundamental concerns about putting more children and young people into the criminal justice system, because that would be counterproductive. I am opposed to banging children up. However, I accept that the children's hearings system is rooted in local authorities and can operate differently in different parts of the country. Robin Harper's suggestion is sensible.

**The Convener:** Okay. We will proceed with that suggestion. I thank members for their patience in discussing the difficult issue that the petition raises and how we should handle it. We should take on board the perspectives that we have heard about this afternoon to see whether they can help us to explore the issue with the review of the hearings system.

### Children's Interests (PE1156)

**The Convener:** Our final new petition is PE1156, by Jimmy Deuchars, on behalf of Grandparents Apart Self Help Group Scotland, which calls on the Scottish Parliament to urge the Scottish Government to review the administration of child and family law services to ensure that they operate in the best interests of the child.

Do members have any comments on how we should handle the petition?

**Nanette Milne:** I have sympathy with the petition. We have said—and we still say—that the issue was considered and dealt with in recent legislation. However, we still hear, admittedly in anecdotal evidence, that a number of people are not satisfied that the system operates in the best interests of the child in every case, albeit that it does so in many cases. Maybe we should investigate a little more before we close the petition.

**Angela Constance:** Like Nanette Milne, I have sympathy with the petition, given that everything should be child centred. Does my memory serve me correctly, though? Did we deal with a similar petition? Is there an issue of consistency?

**The Convener:** Yes. I was going to say that. Paragraph 13 of our briefing on the petition mentions other petitions on the same topic, which came from the same petitioners, essentially.

There are difficult issues of process. I acknowledge what Nanette Milne said. The issue is whether we believe that the interests of the child are protected in the current legal structure. On balance, I believe that they are, but the petitioners believe that they are not. We need to make a choice this afternoon.

**Nigel Don:** The issue is of considerable interest to me and, indeed, my staff. I draw members' attention to the fact that there is a motion in my name on a similar area of family law and the best interests of the child. I hope that we will debate that motion before the end of term, but whether we will do so remains to be seen.

We should recognise that, often, when families break up, all of one side of the family suddenly loses contact with the child or children. It is not just that the father loses contact because the children stay with their mum; the father's parents and the rest of his family can also lose touch with the children. For the individuals, that is life-and-death stuff—"I'm not going to see these folk again until they've grown up," which might be years away.

There is also the situation in which the child or children stay with their mother when the break-up happens and the mother, one way or another, becomes susceptible to depression, drugs or other things that we could name. Suddenly the grandparents, sensibly, look at the situation and say, "We are the best people to help, but the law does not seem to recognise us." That can lead to desperate times for the individuals concerned, who can see what should happen. They might be right, but the law does not always help.

In fairness to the petitioner, the petition calls on the Parliament to urge the Government

"to review the administration of"

the law rather than the law itself, which is a clear and sensible distinction. I am not convinced from my consideration of the matter so far that we can do much with the text of the law, but the way in which things are done is plainly negotiable and reviewable. We need to address that, and I hope that my motion will be debated so that I can impress that upon the Government. I do not know how the committee would want to interact with that, and I do not offer a suggestion. All that I can say is that I am doing that work.

**Robin Harper:** I support Nigel Don's position. If the children's panel is being reviewed, we need to have a review of children's services, which are separate from the panel. In fact, one of the panel's biggest problems is finding the services that it would like to assist children and families. It would be sensible at least to start asking questions about children's services in relation to everything else that is going on, particularly the review of the children's panel.

**Bashir Ahmad:** Angela Constance is the mother of a new-born baby. The mother can tell what love there is for the child. As men, we cannot really tell how much love there is. We should leave it to the mother rather than to the man.

**The Convener:** Those arguments used to rage between my mother and father in my house on Friday nights. They are unresolved to this day.

On balance, members are saying that we want to explore the issue a bit further because the petition calls for a review and does not directly challenge the implementation of the legal framework. I ask the clerks to use their knowledge to frame how we can best explore the issue. We are trying to establish whether we can use the concerns expressed by the petitioners to raise the issue with the Cabinet Secretary for Justice or the appropriate minister with responsibility for education or young people.

The recommendation is that we want to explore the issue a bit further, and that we will take the matter up with the appropriate agencies and ministers.

I thank members for their work on the new petitions. It has been a long shift this afternoon. I also thank the people in the public gallery who have been with us all afternoon. Stakhanovite medals should be awarded for their endurance.

## Current Petitions

### Animal Carcasses (PE1004)

16:38

**The Convener:** We come to consideration of current petitions. I hope that we can get through the petitions that are already in the system as quickly as possible.

I am aware that Des McNulty is here. Can we, at the committee's discretion, move items on the agenda? I do not know who else is in the public gallery, so perhaps it would be unfair to do so. Sorry Des—I tried my best.

PE1004, by David Adam, calls on Parliament to consider and debate the environmental impact of animal gasification plants and to urge the Scottish Executive to ensure that the Scottish Environment Protection Agency, which is the agency that is responsible for coverage, has sufficient powers and resources to deal with such problems. Do members have views? I received an e-mail on the petition, but I do not know whether that is true of other members. It has been included among the committee papers for the meeting and there is a letter from Caroline Monro. Are there any particularly strong views on how we should deal with the petition?

**Members indicated disagreement.**

**The Convener:** Okay. The petitioners acknowledge that SEPA has tried to deal with some of the issues that have been raised. The petition has been in the system for a while: I am worried that we have not moved it forward.

**Nanette Milne:** Perhaps we have done all that we can do because SEPA has certainly revised its enforcement policy. It is clear that the local people are still not satisfied, but I am inclined to close the petition.

**The Convener:** Okay. In a sense, the responsibility is now with SEPA—it has the powers and the regulatory framework. I presume that elected members who represent the affected neighbourhood could lobby strongly for SEPA's intervention. I share the petitioners' concern, but I do not know whether the Public Petitions Committee can do any more than we have done in raising the issue with SEPA. On balance, I think that we should close the petition on the ground that we believe that action should now be taken by the organisation that is responsible for enforcement. We can perhaps draw SEPA's attention to the petitioners' further concerns about the impact on their neighbourhood. We can, if we do that, at least say that we have passed on their concerns for SEPA to address.

### Mesothelioma (Prescribing) (PE1006)

**The Convener:** PE1006, by Bob Dickie, on behalf of Clydebank Asbestos Group, calls on Parliament to urge the Executive to ensure continuation of the current prescribing arrangements for mesothelioma sufferers, under which Alimta—or whatever it is; there are too many big words for me for this time in the afternoon—is made available.

Des McNulty is present, as a local constituency member, to speak to the petition. He has been raising the matter in Parliament for a considerable time.

**Des McNulty (Clydebank and Milngavie) (Lab):** I have been doing that. However, we are now in a situation whereby the Public Petitions Committee can close the petition with a sense of achievement because Alimta is now available not just for mesothelioma sufferers in Scotland, which was achieved following the petition being taken up, but for mesothelioma sufferers throughout the UK. That is a significant step forward because Alimta is the only drug that is registered for use for mesothelioma. It is now available because of the campaigning efforts of the Clydebank Asbestos Group, particularly its members Bob Dickie and Jimmy Cloughley, who have been waiting all afternoon in the public gallery. They can chalk up the availability of Alimta as another significant achievement in the campaign on behalf of asbestosis sufferers.

I thank the Public Petitions Committee for its efforts and I commend the campaigners who have achieved another victory. The reputation of their asbestos campaigning work and what it has achieved in Scotland provides a model not just for other jurisdictions in the UK, but for jurisdictions in other parts of the world.

**The Convener:** I thank you for that. We do not often get parliamentarians coming back to congratulate a parliamentary committee. We might chalk that up as a first. The committee has played a small part in the petition's success, but the success was due mainly to the campaign. The committee has received communications over a number of years from the Clydebank Asbestos Group and various other campaigns that were tackling the asbestos issue. They have gone through many ups and downs, and I am sure that many challenges still exist

The campaigners' fortitude and commitment, and their organisational and agitational activities over the years have made a real difference. The situation is markedly better than it was and provides a good lesson on how to run campaigns to try to change Government policy. I record our appreciation of, and respect for, the campaigners' work and how they utilised the opportunities for

democratic participation to make a real difference for the individuals for whom they care.

16:45

I am sure that other members share those sentiments and will want to recognise the work that has been done. The two gentlemen who were mentioned by Des McNulty are at the very back of the room, and I ask them to stand up and get a wee bit of recognition. [*Applause.*]

I believe that that is the first time a member of the public has received applause at a Public Petitions Committee. It is a remarkable achievement, but I will probably get told off by the clerks for being so informal. I thank everyone involved in this campaign. I should add that as a member of a political party that is in need of some good advice on how to run a good campaign over the next couple of years, I am happy to take anything that you are willing to give.

I also want to thank Des McNulty who, when the going got tough and people said "You're not going to achieve anything", kept faith with the goal of getting justice for the individuals who suffer from the condition. I thank everyone for their time and patience.

### **Village and Community Halls (PE1070)**

**The Convener:** PE1070, by Sandra Hogg, on behalf of the Scottish Council for Voluntary Organisations, raises concerns about support services for village halls and the resources that are available for refurbishment. It calls on the Scottish Government to work with halls to reduce some of their economic burdens in respect of charges for essential services.

PE1070 has been around for a while, but there are still issues outstanding. Have members any comments on how we might take things forward?

**Nanette Milne:** As a result of the successful village hall summit, research into rural community facilities is now under way. However, I understand that it will not be concluded until October. We are also in the middle of a consultation on water charges, which affects village halls and other local organisations. We need to know more about all that before we can consider closing the petition, so I suggest that we keep it open and ask the Government to get back to us once it receives any further information.

**The Convener:** That would be helpful.

**John Farquhar Munro:** I agree that we should keep the petition open, particularly because when I read the papers on it, two anomalies emerged. One paper said that the Scottish Executive had given the SCVO £200,000 to encourage communities to instigate bids for improving small

village halls. However, the next paper said that £300,000 had been given. On top of that, the Scottish Executive, the Scottish Government or whatever had given the Crofters Commission £100,000 that was ring fenced for promoting bids for the upkeep and upgrading of village halls in small communities. There is quite a bit of ambiguity.

In any case, the need remains, so we should keep the petition open. As Nanette Milne has pointed out, no decision has been reached on the major issue of water and sewerage charges that has worried many communities.

**The Convener:** That is also very helpful. Although there has been some progress on water charges, the petition raises two or three other matters on which we should try and get satisfactory responses from the Government.

### **Primary Schools (Visiting Specialist Teachers) (PE1071)**

**The Convener:** PE1071, by Ruchelle Cullen, on behalf of Lochinver primary school parents and teachers association, calls for visiting specialist teachers in music, art and physical education to have adequate access to schools in rural and remote areas.

Again, some issues in the petition are outstanding. For a start, we want to find out whether the new curriculum guidelines will ensure access to rural and remote areas by visiting specialist teachers, particularly those who are involved in the expressive areas of the curriculum. Such subjects are, after all, essential to student development.

John, are you going to give us a traditional Highland song?

**John Farquhar Munro:** Aye, and a dance.

**The Convener:** Good stuff.

**John Farquhar Munro:** This is all tied in with the issue of reducing class sizes. The debate continues, but very little seems to be happening.

**The Convener:** We will explore with the Government the outstanding issues in the petition.

### **John Wheatley College (PE1072)**

**The Convener:** PE1072 is from Councillor Frank Docherty, on behalf of the board of John Wheatley College and of the east centre and Calton local community planning partnership. It calls on the Scottish Parliament to take steps to enable John Wheatley College to comply fully with the charities test that was established under the terms of the Charities and Trustee Investment (Scotland) Act 2005.

I declare an interest, as this matter has been raised with me because my constituency is served by the college. I am also an ex officio member of the community planning partnership.

I note that, this week, the honourable First Minister was present in the east end of Glasgow to announce that he intends to introduce legislation to rectify the anomaly with which the petition deals. I welcome the wisdom and intelligence that the First Minister displayed—long may it continue in relation to suggestions that are made from the east end of Glasgow.

Do we agree to close the petition on the ground that action is being taken?

*Members indicated agreement.*

**The Convener:** I know Frank Docherty well enough to know not to invite him to accept an accolade at a meeting of the committee, so we will just send him a letter to thank him for raising the issue.

### **Registered Social Landlords (PE1075)**

**The Convener:** PE1075, by David Emslie, calls on the Scottish Parliament to investigate the administration and operation of registered social landlords. Do members have any suggestions about how to deal with the petition?

**Nigel Don:** I reiterate that I do not propose to take any part in the discussion on this petition.

**The Convener:** I recognise that.

Since the petition was received, the Government has published the “Firm Foundations: The Future of Housing in Scotland” discussion document, part of which is about the regulatory framework that should be put in place following the transition away from Communities Scotland. Some of the issues that are raised in the petition could perhaps best be addressed in relation to the legislation that will follow on from that, and in the deliberations that committees will have on the matter. Accordingly, I suggest that we close the petition on the ground that the issues that it raises will feature in the upcoming legislative process. Do members agree?

*Members indicated agreement.*

### **Historic Sites (Protection) (PE1078)**

**The Convener:** PE1078 is from Peter Paterson and the Save the Gillies Hill committee. The petition calls on the Scottish Parliament to consider and debate the need for new legislation to protect historic sites.

I understand that ministers are discussing issues relating to historic sites. I suggest, therefore, that we write to the ministers to ask for an update on

those discussions and to find out whether there is any likelihood of something coming to the Parliament for consideration. Do members agree with that suggestion?

*Members indicated agreement.*

### **Wind Farm Developments (PE1095)**

**The Convener:** PE1095 is from Sybil Simpson, on behalf of the save your regional park campaign. It asks Parliament to urge the Government to provide greater protection for Scotland's national and regional parks from developments such as wind farms and their associated quarries, roads, cable trenches and substations.

Do members have any views on the non-contentious issue of wind farms and their impact on regional parks?

**Nanette Milne:** We need to get a further response from the Government on its attitude to wind farms in the regional parks and the protection from industrialisation that the parks should have. It is important to safeguard the parks, which are an important part of the Scottish countryside.

**The Convener:** I agree that we need more information before we can decide what to do with the petition. Do members agree to act on Nanette Milne's recommendation?

*Members indicated agreement.*

### **Motorcycle Facilities (PE1100)**

**The Convener:** PE1100, by Bob Reid, on behalf of the Scottish Auto Cycle Union and the North Lanarkshire Scramble and Quad Bike Club, calls on the Scottish Parliament to urge the Scottish Government to review planning and environmental regulations to allow for provision of safe local and national off-road motorcycle facilities, including a centre of excellence in North Lanarkshire.

The petition has been before the committee a couple of times, but it seems that some issues remain unresolved. Shall we write a strong, direct letter to the Government to ask it to meet the petitioners to try to deal with the issues that the petition raises?

*Members indicated agreement.*

### **St Margaret of Scotland Hospice (PE1105)**

**The Convener:** The final petition is PE1105, by Marjorie McCance, on behalf of St Margaret of Scotland Hospice. The petition calls on the Scottish Parliament to urge the Scottish Government to guarantee retention of continuing care provision for patients who require on-going complex medical and nursing care, such as that provided at the 30-bed unit at St Margaret of Scotland Hospice, and to investigate whether

arrangements for funding palliative care provision at hospices in the context of Health Department letter (2003)18 are fair and reasonable.

Des McNulty, the constituency member for the area, is with us to discuss the petition. I acknowledge that he has survived the past one-and-a-half hours of the meeting.

We have explored the issue and have heard from Des McNulty, campaigners and church representatives who have offered their support. We have also received further correspondence on the issue.

Do members have any views on how to deal with the petition, which deals with a contentious issue?

**Nigel Don:** Am I right in thinking that we have not heard from the health board?

**The Convener:** We have had no real opportunities to get any formal response, subsequent to our previous contact. The campaigners have raised one or two issues with the health board that have not been resolved. Des McNulty might want to add to that.

**Des McNulty:** The last meeting of the health board dealt with a proposal to withdraw, in effect, the beds from St Margaret's hospice. That proposal was due to be discussed before any meeting was held with the hospice to discuss the relevant issues. Fortunately, some of the lay members of the health board took the view that the decision was an inappropriate one for them to take at that time. Subsequently, there has been one meeting between the hospice and the health board, and another one is scheduled.

People who are involved with the hospice and who use it are concerned about the fact that the health board seems to be intransigent in its decision to take forward a proposal that would not only remove continuing care beds from the hospice, where all the indications are that the care is excellent—indeed, better than that which is available elsewhere in the system—but jeopardise the ability of the hospice to provide continuing care and palliative care.

The health board is the hospice's main funder; it funds all the continuing care and 50 per cent of the palliative care. If the health board removed two thirds of its funding, which would be a consequence of the removal of continuing care funding, the hospice would be placed in an impossible financial situation.

Currently, continuing care patients and palliative care patients receive top-quality care. The alternative has not been demonstrated to be better—in fact, the evidence suggests that it could turn out to be significantly worse.

The Cabinet Secretary for Health and Wellbeing set out a number of criteria on which she would base a choice on whether to intervene in a situation, including whether there was substantial community concern about a proposal, whether the proposal was not in the best interests of patients, and whether the proposal was seen to be irrational. She used that set of criteria to make the interventions in Monklands and Ayr. My view and that of the campaigners is that it is inconsistent to intervene in those contexts and not the situation at St Margaret's hospice.

17:00

People feel strongly about the issue. When the petition came before the committee previously, it had about 60,000 signatures; there are now more than 90,000—perhaps 100,000. More than 400 people attended a meeting in Clydebank in March. In the modern age, that is a huge political meeting. People throughout the community, from all political parties, are saying, "This decision makes no sense at all."

However, we do not seem to be able to get any purchase on the health board, which made the decision in the first instance; nor, regrettably, have we been able to get a response from the Cabinet Secretary for Health and Wellbeing on whether we can stop this nonsense and, rather than strip out something that works excellently and replace it with something that may turn out to be not so good, try to build around what is excellent in the system. That is what the petition is about.

The issue is becoming increasingly urgent because the meeting at which the deferred decision is due to be taken is scheduled for 24 June. If there is anything further that the Public Petitions Committee can do to encourage the health board and the cabinet secretary to take an initiative that resolves the problem, that would be very much appreciated, certainly by my constituents. It would also be appreciated by constituents in other areas, because the hospice covers not just Clydebank but East Dunbartonshire, the west side of Glasgow and the surrounding areas. It is a well-used, well-known institution in that part of Scotland.

**Nigel Don:** It is not entirely obvious to me what we can do. We have written to the cabinet secretary and it is really in her gift to intervene. We cannot tell the health board what to do. I am struggling to think of lines of action that we can take.

**The Convener:** We cannot tell the health board what to do, but others have the power to do that. That issue is raised by the petition.

There are three issues of fundamental importance to the petitioners. First, we still do not

have an accurate response from the health board on specific issues of concern raised by the petition. As a matter of principle, the committee should say, "We're still awaiting clarity on your position." Secondly, we want to know the board's analysis of the proposals that it discussed with the hospice when it was trying to manage its way out of a decision—perhaps made in good faith—that is having an impact on the viability of the hospice. Thirdly, we want to know whether there are grounds for revisiting some of the issues.

**Des McNulty:** That captures the issues well. Going beyond them, however, recent Scottish Executive directives on health governance talk about palliative care and about people being given the option of being looked after in hospital, in a hospice or at home. One impact of the proposal would be to wipe out the hospice option for continuing care patients. I do not understand the grounds for doing that. This is not just an administrative decision on the part of the health board. There appears also to have been a policy decision to separate out two categories that are difficult to separate out—those in continuing care, who are on average 48 days from death, and those in palliative care, who are presumably even nearer the point of death—by saying that one group will be fully funded and served by NHS facilities, and that the other will be provided for by hospice arrangements. An artificial barrier between the two types of care appears to have been constructed. I cannot believe that that is a considered policy view, but it seems to have been imposed by a particular policy decision. My view as a constituency member is that that is the wrong way of going about things.

On few matters—including the asbestos issue to which I referred—is the community more united in querying a decision and saying that it is not right. That is why I am taking every step—the committee can be part of that—to ask whether such a decision should be taken on the basis of such evidence.

**Angela Constance:** You have my sympathy and support in dealing with intransigent health boards. If we were not short of time—you said that the deadline was 24 June—I would have supported hearing evidence from people who can make decisions and from the health board.

I apologise but, given my sleep-deprived brain—I have a wean who never sleeps—

**The Convener:** That is no way to speak about your man.

**Angela Constance:** Perhaps I have not retained or computed the information in the briefing paper as thoroughly as I would hope to, but are not the statements of Greater Glasgow and Clyde Health Board contradictory? If I read

the paper correctly, in November 2007, the board said that everything was hunky-dory, whereas in January 2008, it said that it no longer required St Margaret's to provide NHS continuing care. That is a stark contradiction over a short time, which leads me to query all sorts of issues, such as the transparency of decision making. Where was the public consultation on the changes?

**The Convener:** Do not start Des McNulty on that. Is it fair to say that people do not believe that the level of public consultation was anywhere near even that of a naive understanding of public consultation?

**Des McNulty:** The legal position is that the health board must consult when it is to close a hospital, but the board would argue that it is not closing anything, because the facility that is in jeopardy is not under its control and is provided by the voluntary sector. The board is saying, "We will no longer require a service from you, small voluntary sector organisation. What happens to you is not necessarily our responsibility." That is the legal position. I am sure that the board would dress that up differently and say that it would put its arm around the organisation and look after it, but the reality is that the board is telling an institution that exists to look after the dying that it no longer wants that institution to look after half the number of dying people that it currently looks after.

**Robin Harper:** I have a suggestion. Would it help to write yet again to the health board to point out the questions that have not been answered and to copy that letter to the Cabinet Secretary for Health and Wellbeing?

**The Convener:** That would be useful. It might also be worth saying in a letter to the cabinet secretary that we would be disappointed if a final decision were made before all the issues had been explored with the health board. I see no reason why we cannot say that.

**Robin Harper:** Perhaps we could explain that we see the situation in the blunt terms in which Des McNulty has explained it.

**Angela Constance:** Can we do anything more? I appreciate the technicalities—well, actually, I do not appreciate the legal technicalities. Irrespective of whether the hospice is in the voluntary sector rather than the national health service, a fundamental service redesign is proposed. That is fairly stark.

**The Convener:** We can summarise the key points that committee members and Des McNulty as the constituency member have raised. We can say that we still think that the concerns are unresolved and that we would be disappointed if a decision were made that militated against further exploration of the issues and against whatever



else could be done. We will offer our good services to help that to proceed.

I know that some meetings between the board and the hospice, which has expressed concerns, have been tense, to say the least. It would be useful for us to draw the cabinet secretary's attention to the fact that we are concerned that the matter is still unresolved.

**Des McNulty:** Such meetings might have been tense if they had taken place, but I understand that only one formal meeting has occurred so far. There may need to be more meetings.

I am grateful to committee members for their comments—the suggested route forward is helpful. However, I am keen that we should not lose sight of another dimension of the petition—the way in which the rate for palliative care is determined. Under the current system, palliative care hospices get 50 per cent of what are called the agreed costs of looking after a palliative care patient. Everywhere else in the health service, the system works on the basis of an identified cost. The cost of carrying out a procedure or looking after a type of patient is identified, and it is agreed that that amount will be provided, regardless of where people are in the country. The arrangement does not apply to hospices, which receive agreed costs that vary in line with their relative financial circumstances. The range of costs for palliative care patients can be very wide—costs seem to vary largely on the basis of the financial circumstances of the hospice that is looking after them. I see that as an iniquitous arrangement. It has been in place over an extended period, but it does not make sense and is not fair and just. I am keen that we should not lose sight of that strand of the petition when dealing with the immediate circumstances of the dispute between St Margaret of Scotland Hospice and Greater Glasgow and Clyde NHS Board.

**The Convener:** We can raise the issue in our letter to the cabinet secretary. We will ask about both immediate decision making and long-term investment in and resourcing of palliative care and hospice developments in Scotland.

I hope that the discussion has been useful. I thank members of the public who have concerns about the issue for their patience. I hope that we will be able to make progress on the matter. I am sure that people have other innovative ways of ensuring that their voices are heard. I thank Des McNulty for his evidence.

## New Petitions (Notification)

17:13

**The Convener:** We have finished this afternoon's consideration of petitions. Do members acknowledge the new petitions that have been lodged since our previous meeting and which will be timetabled to come before us at an appropriate meeting in the near future?

**Members** *indicated agreement.*

## Annual Equalities Report

17:13

**The Convener:** We are to consider a draft annual report on equalities for 2007-08. I am comfortable with what I have seen so far.

**Members** *indicated agreement.*

## Annual Report

17:13

**The Convener:** We are to consider a draft annual report for the parliamentary year from 9 May 2007 to 8 May 2008. Are members content with the contents of the report?

**Members** *indicated agreement.*

**The Convener:** Are members content to merge the annual report with the annual equalities report?

**Members** *indicated agreement.*

**The Convener:** It is only right and proper that we should reduce the paperwork.

As there is nothing else on our agenda, I conclude this afternoon's formal business. It has been a long afternoon for members; I am grateful to them for their time and commitment. We will meet next on Tuesday 10 June.

*Meeting closed at 17:14.*

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