

PUBLIC PETITIONS COMMITTEE

Tuesday 3 March 2009

Session 3

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PUBLIC PETITIONS COMMITTEE

4th Meeting 2009, Session 3

CONVENER

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Marlyn Glen (North East Scotland) (Lab)

*Robin Harper (Lothians) (Green)

*Anne McLaughlin (Glasgow) (SNP)

*Nanette Milne (North East Scotland) (Con)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Christina McKelvie (Central Scotland) (SNP)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

Peter Brown (Leith Links Residents Association)

Malcolm Chisholm (Edinburgh North and Leith) (Lab)

Margaret Curran (Glasgow Baillieston) (Lab)

Christine Grahame (South of Scotland) (SNP)

Robert Kirkwood (Leith Links Residents Association)

Lewis Macdonald (Aberdeen Central) (Lab)

Des McNulty (Clydebank and Milngavie) (Lab)

Gil Paterson (West of Scotland) (SNP)

Shirley-Anne Somerville (Lothians) (SNP)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERK

Franck David

Jonathan Orr

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 3 March 2009

[THE CONVENER *opened the meeting at 14:02*]

Interests

The Convener (Mr Frank McAveety): Good afternoon, everyone. I welcome the public, members of Parliament and parliamentary staff to the fourth meeting in 2009 of the Public Petitions Committee. I have received no apologies, although I know that one member has another meeting that clashes with this one. I hope that the member will attend later. All mobile phones and electronic devices should be switched off during the meeting.

Item 1 on the agenda is a declaration of interests by the new committee member. I welcome Anne McLaughlin to the Public Petitions Committee and, in accordance with section 3 of the "Code of Conduct for Members of the Scottish Parliament" which has been issued by the Standards, Procedures and Public Appointments Committee, I invite her to declare any interests that are relevant to the remit of this committee.

Anne McLaughlin (Glasgow) (SNP): I have no interests to declare other than those that are on my register of interests, which will be published shortly.

Decision on Taking Business in Private

14:03

The Convener: Item 2 is a decision on taking in private at future meetings consideration of our draft report on petition PE1171, on knife crime. That would allow us to facilitate further deliberations on the report for our meeting on 17 March. Does the committee agree to do that?

John Wilson (Central Scotland) (SNP): The petitioner should be notified that the committee will take this action.

The Convener: With that recommendation, does the committee accept what is proposed?

Members indicated agreement.

New Petitions

Scottish Class Action Procedure (PE1234)

14:03

The Convener: Item 3 is consideration of five new petitions. Members have copies of the petitions and all supporting information.

The first petition is PE1234, by Peter Brown, on behalf of Leith Links residents association, which calls on Parliament to urge the Scottish Government to instigate under Scots law a class action procedure, or similar, which would correspond with the legal systems of many other countries, including England and the United States.

The petitioner, Peter Brown, and Robert Kirkwood are present for the petition. Two members of the Scottish Parliament, Shirley-Anne Somerville and Malcolm Chisholm, are interested in the petition and are present to participate in the discussion. I invite Peter Brown or Robert Kirkwood to make an opening statement, after which we will have a question-and-answer session.

Peter Brown (Leith Links Residents Association): Good afternoon. As the main petitioner, I thank the committee for the opportunity to present the petition. I live in the Leith Links area of Edinburgh and am a member of the Leith Links residents association, which has provided a focal point for the needs of Leith Links residents over the past decade on a number of local issues. Having an increasing portfolio, the association's committee sought assistance from non-committee members, which is how I come to be here today as the main petitioner.

Our petition calls for the introduction of a class action procedure in Scots law, to bring it into line with many other legal systems worldwide, including those of England and the United States of Edinburgh—sorry, the United States of America. I am getting above myself. Our ground for this call is the accessibility of natural justice for the common person. Members will be familiar with the petition's content, so my statement will provide background on how the LLRA has concluded that a class action procedure offers the best solution to at least one of its tasks in hand.

The LLRA has not found the present democratic system to be particularly supportive of groups of residents like us, who have endured years of misery due to the poor infrastructure and mismanagement of Seafeld sewage works. It therefore seemed worth our while to try to attack the problem from another direction, using the process of law.

The ex-sheriff, Ian Hamilton QC, has recently attempted to pursue legal action against the Royal Bank of Scotland through the small claims court. However, it has just been ruled that the complexity of the case requires that the action take place in a higher court. Mr Hamilton has subsequently dropped the case because he cannot afford the legal costs and has told journalists that his case could be dealt with efficiently only through a class action. The community of Leith around the Seafeld sewage works has had to drop legal action against Scottish Water for similar reasons.

In 2001, the LLRA approached an Edinburgh law firm with a view to pursuing legal action against Scottish Water. We were advised that our case was strong and that the company's practice of creating clouds of foul-smelling hydrogen sulphide contravened Scottish legislation on nuisance and European legislation on the right of individuals to enjoy their communities' environment. However, we were further advised that the community could not be represented in a class action, that representation could not be offered on a no-win-no-fee basis, that only an individual or a small group of people could be represented and that the fees would be high.

A way forward was nevertheless suggested, which was that a member of our community who was on benefits could apply for legal aid and represent our concerns in court. We were told that if the outcome of the case was favourable, that would make it easier for pressure to be applied on behalf of others for Scottish Water to settle. A member of our community who is on benefits was subsequently chosen and an application for legal aid was made. However, it was turned down and, as happened with Ian Hamilton, the case was dropped.

What I have described, and the following, represent reasons why court procedure rules should be changed to allow class actions in Scotland. First, existing procedures do not provide sufficient or effective access to justice for a wide range of citizens. Secondly, existing legislation is effective in part, but could be considerably improved to promote better enforcement of citizens' rights, while protecting defendants from non-meritorious litigation. Thirdly, evidence exists that meritorious claims are not being pursued. Fourthly, effective collective actions promote market efficiency, and benefit individual citizens, business and society as a whole. Equally, such actions are effective mechanisms through which individual rights can be upheld.

I thank you for your attention and I commend the petition to you.

The Convener: Thank you, Peter. I invite Shirley-Anne Somerville to speak, then Malcolm Chisholm.

Shirley-Anne Somerville (Lothians) (SNP): I am here in support of the petition. As has been said, the petition is based on work on the Seafield stench, which has been a long-running saga in Leith. However, the chaos that is hitting the financial system at the moment brings home to us that the issue of class actions should be important to us all. The reasons for class actions not existing in Scots law are unclear. I do not believe that justice for all should be blocked because some claims may be frivolous. That could be said about a variety of things in the legal system, but it does not get away from the fact that natural justice should be part of the system.

There are a number of practical difficulties, but they have been overcome by other countries. This issue seems to be a great example of the legal establishment deciding that something is too much hassle for the legal establishment. Again, that is not a reason for ignoring the plight of the people in Leith.

The LLRA cannot find a solution to the issue in the current legal system. If a residents association that is as active as the LLRA cannot do so, I assume that nobody else can, which means that thousands of individuals are left without a voice. I urge the committee to explore this issue further so that we can assist places like Leith.

The Convener: Would Malcolm Chisholm like to add anything?

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I assume that Robert Kirkwood will also be called to speak.

The Convener: Yes.

Malcolm Chisholm: I would not want to supplant him; he has been campaigning on the issue for many years, as has Susan Deacon, who formerly represented the constituency that includes Seafield.

There is a specific local issue, but there is also a more general issue, which is perhaps what the Parliament will focus on primarily. It is unacceptable that consumers and others should be given rights that they cannot effectively enjoy, which is what happens in Scots law at the moment. I was not well informed about this matter in the past. It came up in previous sessions of Parliament, and a decision was made by the Court of Session Rules Council not to change the procedures.

I am disappointed that we should be listening only to the views of lawyers on this issue, but that was the view that was taken by the previous Administration. It is right that politicians should

express a view on the matter because it seems to be incredible that Scots law has no procedure like the one that is proposed.

The proposal would make a great difference. As we know, many people simply cannot afford to take action, which is against the interests of justice. Consumer Focus Scotland put the matter well in its submission to the review that is being carried out by Lord Gill. It said:

“We believe that the introduction of a class actions procedure ... would:

- increase access to justice
- provide an effective remedy, allowing people to exercise their legal rights
- save time and money, both for parties and the courts
- avoid inconsistent decisions in similar cases
- act as a deterrent to unlawful/unfair behaviour by businesses”.

In general, there is a strong argument for the proposal.

Members will also understand the nature of the long-running saga of the Seafield sewage works. That case highlights how beneficial to local residents it would have been if the suggested course of action had been open to them.

The Convener: I will invite questions from the committee members—Robert Kirkwood can come in on the back of them if he wants.

Bill Butler (Glasgow Anniesland) (Lab): I am sympathetic to the petition and the petitioners' case. I take the points that were made by Shirley-Anne Somerville and Malcolm Chisholm about the benefits of a class action arrangement for the parties involved and for the courts.

Do the petitioners think that it would be appropriate to wait until Lord Gill has concluded his review before we do anything with their petition? I hope that the issue that we are discussing will be dealt with in the report. I am not suggesting that we wait forever—I think that that report is imminent.

Robert Kirkwood (Leith Links Residents Association): We are aware of the review, and wanted to put down a marker, rather than start the process after Lord Gill has concluded his review, in case he was to decide that the course that we favour is not appropriate. The order in which the matter is dealt with is not important from our point of view.

Bill Butler: It is the objective that is important.

Robert Kirkwood: Exactly.

14:15

Peter Brown: We wanted to make it clear that although until now the arguments have involved legal people, the issue involves the interests of citizens. It should not be regarded as being simply a legal matter.

Robert Kirkwood: I think that since lawyers cannot make money out of selling houses any more, they appear to be gathering around this action and giving it a lot of support.

Since class actions have been possible in England, two communities south of the border have successfully pursued litigation against water treatment works—one at Mogden, in London, and another at Sandon Dock, in Liverpool, where six teams of lawyers are representing 3,500 people. As a result of the litigation in Liverpool, United Utilities, the water treatment company, has invested £100 million in upgrading the water treatment works. They were so persuaded by the case that was put that they realised that it was in their interests to produce a modern water treatment works. The same thing happened in Mogden where, under the threat of litigation, a major investment was made in the water treatment plant. Last week, I spoke to both sets of lawyers, who told me that the water companies are willing to settle rather than go through litigation, because of the strength of the argument.

That is in contrast to what has happened here. Only £20 million is being invested in Seafield. One of the reasons why a more expensive option was not chosen was the fear of a prolonged court case—Scottish Water made it clear to the council that it would appeal any decision that a more expensive option should be pursued.

Bill Butler: Obviously, there have been positive outcomes in Liverpool and London. I hope that there will also, if things progress as most people wish, be positive outcomes north of the border, including in Leith.

Robin Harper (Lothians) (Green): Earlier, you outlined a case in which one of the poorest members of your community went to the Scottish Legal Aid Board for help in his attempt to seek redress against a public company for making his or her life a misery, but was denied legal aid. Were any reasons given for the denial of legal aid, or was it simply denied?

Robert Kirkwood: It was simply denied. There appear to be no reasons why; it simply seemed to be regarded as a case that was not worthy of legal aid. We were then left with a bill of £1,000 for an advocate's opinion plus the bill for the application for legal aid, which means that the cost of that little process came to more than £1,500—at least it would have, had we paid the advocate, but we

refused to do so, because it became clear to us that he had not read the documents.

Robin Harper: I find the position of SLAB to be pretty incomprehensible.

Nigel Don (North East Scotland) (SNP): The paper that you helpfully provided us with from Consumer Focus Scotland points out that, under the Local Government (Scotland) Act 1973, the Lord Advocate may raise an action in the public interest but the procedure has never been used. I suppose that that sort of thing might not be terribly unusual in the world of the law. Have you explored that issue? Do you know why that power has never been used? It strikes me that some of the actions that we are talking about would have been in the public interest.

Peter Brown: I have not investigated that, although I read the document to which you refer. I accepted the situation, because the act was passed a long time ago. That question is a good one, however.

Robert Kirkwood: If someone who is suffering cannot even get legal aid to help them address a problem, it suggests that that problem is not regarded as being serious enough for that kind of action. I do not know how you would go about persuading the legal profession that it was.

Nigel Don: My position is that the office of the Lord Advocate is not quite the same as the legal profession, although I acknowledge the connections. The Lord Advocate ought to be perfectly capable of doing something in the public interest without having to worry what lawyers think about it. If the power has not been used, it has not been used.

Robert Kirkwood: On the public interest, we were surprised that environmental services had never served an odour abatement order on the Seafield sewage works in 40 years. The reason that was given was that it was not in the public interest to do so.

Nigel Don: That is an interesting perspective on the public interest.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I notice that the papers that you have submitted suggest that the reason for the refusal to introduce a class action procedure might be that the Scottish Law Commission's report was considered by the legal profession, whose findings became law. It seems a bit unfair that the proposal for a class action procedure was turned down because the legal profession did not think that it was a good idea.

Peter Brown: I have no legal or political background, but Leith Links residents association wanted help about a year ago, so I took the case on. I scratched the surface and found information.

I got a bit of help from Lachlan Stuart—I forget which body he works for—who contacted the Court of Session Rules Council. The people he contacted said that everybody who had been involved in the decision had moved on and that they therefore did not know the details of why the council rejected the 1996 Law Commission recommendation that a class-action procedure should be introduced.

I had to dig in the information that came back to find anything of substance. I mentioned four points: as I said in the petition, they all seem to be superficial and none of them answers the question. However, each one screams at me that it was just the Rules Council saying that it was not convenient. Who are they? They are the legal profession. The rejection had nothing to do with justice.

John Farquhar Munro: It seems unfair that the legal profession should act as judge and jury in such a situation.

Peter Brown: That is how it seemed to me.

The Convener: There is broad sympathy for the petition among committee members, and a couple of other parliamentarians have expressed their support for it. The question is what we should do. I take on board what Robert Kirkwood said about waiting for the Gill review's conclusions. Although Lord Gill's report is imminent—I think it will be published in the spring this year—I suggest that we make Lord Gill aware of the petition and keep it open. After we see his report, we can revisit the issues that the petitioners have raised and deliberate on whether the report provides some of what the petitioners hope for. I am open to committee members' views about what we do next.

Robin Harper: This is a situation in which, if the law is an ass, it has wandered off over the horizon leaving not a trace. We should write to the Scottish Government and ask ministers to consider introducing a class-action procedure as the petitioner requests after they have read the Gill report.

John Wilson: I welcome the opportunity to discuss the petition. It is unfortunate that the Leith Links residents association cannot take a class action on the issue that it has raised, but it has raised Scottish society's need for a class-action procedure. Some of the concerns that it has expressed have been raised by other organisations over the past couple of decades.

I hope that Lord Gill's review will take the issue forward. Instead of just holding the petition until the review is completed, it might be worth our while to write to the Cabinet Secretary for Justice to find out whether Lord Gill has indicated to the cabinet secretary whether class actions will form

part of the review and, if not, what actions the cabinet secretary will take to ensure that class actions become part of the formal legal proceedings that can take place in Scotland. As the petitioners and the papers that are before us indicate, there is clearly a need for a class action procedure, not only for Leith Links residents association, but for other organisations in communities throughout Scotland that find it impossible to take legal action against public bodies because such action fails the public interest test. The issue is whether the public interest test as it is being applied is working in favour of the public interest.

Rather than hold off until after Lord Gill's review is before us, we should ask the cabinet secretary whether the review will contain issues relating to class actions. If it will not, we should, as I said, ask whether the cabinet secretary will look to introduce a class action procedure in Scotland.

Shirley-Anne Somerville: I can provide clarification on one of John Wilson's points: the matter is being considered as part of the review.

The Convener: The clerks sigh in relief. However, it will still be necessary for the committee to get that clarity for our records.

John Wilson: In response to Shirley-Anne Somerville's point, I acknowledge that class action forms part of the review, but it would be interesting to get an indication of whether Lord Gill is bringing forward proposals on class action. The discussion on class action was part of an on-going debate, hence we have a review. However, Lord Gill can review the matter but still come back with the recommendation that no action should be taken on it. I want to find out whether, if Lord Gill eventually says that no action should be taken, what action the Cabinet Secretary for Justice would propose to take in the light of the review.

Bill Butler: I tend to agree with both the convener and John Wilson—I do not think that you are in disagreement. I think that we can keep the petition open and that we should write to the cabinet secretary because it would be helpful to get an initial indication of the Government's approach if Lord Gill were to come up with a specific proposal on class actions.

As Mr Kirkwood said, the committee should put a marker down on behalf of the petitioners, in relation to not only the petition but to previous instances when the ability to instigate a class action would have been appropriate, including in high-profile disasters such as Piper Alpha or consumer issues such as Hoover's reneging on free transatlantic flights—I hope that the convener did not accept Hoover's promise at the time. These are serious issues.

The Convener: What's Hoover? I am too young.

Bill Butler: You vacuumed up that question.

To get back to the point, convener, which you made me stray from, I think that John Wilson is correct and you are correct. The committee should put a marker down.

It might be useful in writing to the cabinet secretary to ask what actions, if any, Governments have taken as a result of the Scottish Law Commission class action report of 1996.

The Convener: Do any members who spoke on the petition have any other points?

Malcolm Chisholm: Are we allowed to contribute to the general discussion?

The Convener: Yes.

Malcolm Chisholm: Obviously, I am pleased that members are responding positively, not only by keeping the petition open but by writing to the Scottish Government. The cabinet secretary would not say it, but I accept that the Government of which I was part perhaps did not handle the issue properly if it just contracted the issue out to lawyers. It is important that politicians take an active role in the decision. It seems obvious that we should listen to lawyers on the issue, but the final decision ought to be for politicians. It would be helpful if the committee could be as positive as possible about the content of the petition and send out the message that Parliament will take a strong interest in what happens.

14:30

The Convener: Committee members have indicated that they wish to process the petition as effectively as possible. I note the recommendations that members have made. We should also bring the petition to the attention of Lord Gill—he should be made aware of it even though he is in the final stages of producing his report. The petitioners will be notified when the petition is brought back before the committee. Although they may not have an opportunity to speak to the committee directly, the elected members who have expressed an interest in the petition will be happy to come back at a future date. I hope that we will be able to make progress on the issues that the petition raises and that what I propose is to the petitioners' satisfaction.

St Andrew's Medal (PE1232)

The Convener: The next petition for consideration is PE1232, from Alasdair Archibald Walker, which calls on the Parliament to urge the Scottish Government to instigate a national civic award, the St Andrew's medal, to recognise those who have performed extraordinary or outstanding acts of bravery. Christine Grahame MSP has expressed an interest in the petition and would like

to speak to it. We will then deal with the issues that the petition raises.

Christine Grahame (South of Scotland) (SNP): I feel that I am a half-member of the committee today, as I hope to be able to speak to the next petition, too.

Anything that I say is not intended to diminish any existing honours or awards and those who have accepted them. We are not talking about the honours system, but about a civic award. A parallel or model might be the civic awards that are made by various local authorities, including some in England. The St Andrew's medal would be a Scottish civic award.

Without anticipating the committee, I hope that we can park any debates about what is and is not reserved. It is a bit like groundhog day, as I thought that the argument was dealt with at the members' business debate on the Lancasteria, in which I pointed out that in 1999 I received a medal for doing nothing, apart from getting elected to the Parliament. The issue of whether medals can be awarded has been settled—what remains to be considered is the nomenclature of such medals.

Scotland is the only western nation not to have its own system of civic awards. This is an opportunity for the Parliament to have a clean slate because—notwithstanding what I said earlier—some parts of the United Kingdom honours system have been tarnished with allegations that people have bought their way to honours. I propose a system that rewards ordinary people for civic actions that are above and beyond what many of us would be prepared to do. For example, we in Scotland were unable to provide the people who helped to prevent the terrorist attack on Glasgow airport with any recognition on our part for what they had done for their fellow citizens. A smaller-scale example is that of three young men from Penicuik, in the area that I represent. Liam Dugan, Aaron Moore and Daniel Sturrock rushed to the aid of an ice cream man who had been shot. By their actions in applying first aid appropriately, they saved his life. Those young people received medals from the Priory of Scotland of the Order of St John, but we were not in a position to recognise what they had done.

The petition is fairly straightforward. A decade on from devolution, it seeks to have the Parliament grow up a bit and present civic awards for deeds that go beyond what we expect of people. It is up to ministers—and the committee in the first instance—to consider the idea and whether to establish a committee to examine how to implement something that is missing from our position as the Parliament in Scotland.

The Convener: Do members have questions?

Robin Harper: In fact, parliamentarians received not medals but medallions. The difference is important. A medal can be hung on the chest, but a medallion has no attachment for a ribbon and is stuck on the side of a decorative mug by those who want to keep it on their mantelpiece.

The Convener: Robin Harper concedes that he is not the medallion man of the Parliament. Perhaps that should have been Tommy Sheridan.

Christine Grahame: Some people might think that the medallions should have been hung round our necks.

The Convener: Do other members have questions?

John Wilson: Christine Grahame raises an important issue. Local authorities can award the freedom of a city to dignitaries and universities can award honorary degrees but, as Christine Grahame said, the Parliament is not allowed to give civic recognition to work or deeds by individuals. Does she see the award of the St Andrew's medal as similar to the award of the freedom of a city?

Christine Grahame: I thought that I dealt with what is not allowed and is outwith our powers. Making such an award would not be outwith our powers. If I may correct my position on our medallion, the Parliament awarded the Lancaster medal to survivors of that naval disaster to recognise an event—albeit 60 years afterwards—that the UK Government had failed to recognise. The people who received that award treasured it. It was not party political and it involved people who came from all over the UK and elsewhere.

The proposed medal might be for residents of Scotland or for people who do something civic in Scotland—I do not want to pre-empt any committee's investigation. The proposal is worth pursuing. It would do the Parliament no harm to be seen to be looking outside its bubble at the work that other people do and which goes unrecognised.

Bill Butler: I speak with some hesitation and trepidation. I am not sure whether the proposal is ultra or intra vires. If it is ultra vires, it would still be useful to write to ask the Scottish Government to consider making representations to the Westminster Government on it.

We should try to take a balanced approach. I do not advocate the approach of my esteemed colleague, the Labour list member for the Lothians, in his rather extravagantly worded motion.

The Convener: But it is direct.

Bill Butler: It is very direct.

Christine Grahame mentioned civic awards, which we can make, but is the proposed medal meant to be for civilians, which would make it complementary to the George medal and the George cross? If so, I think—although I am not a constitutional lawyer, thankfully—that it would probably be ultra vires. However, I do not know.

The committee should consider writing to the Scottish Government to ask whether its legal advice is that the suggested award would be intra or ultra vires. Notwithstanding the Government's answer, we should also ask whether Scottish ministers have had dialogue with their Westminster colleagues about the suggestion or similar ideas.

Marlyn Glen (North East Scotland) (Lab): I have no strong opinions on the issue either way, but I have a question for Christine Grahame. Are you concerned that there might be a hierarchy of awards if we introduced a medal?

Christine Grahame: The petition is not mine, but I thought that there would simply be a St Andrew's medal that would be awarded. The issue would be for a committee to decide. More than one medal might be awarded in a year. For instance, if we had had such an award in the year when the attack took place on Glasgow airport, three or four people might have been involved. There might be years in which nobody received the medal—its award would not be mandatory. The proposal is that we give Scotland the power to award such a medal. We would have a system whereby, in a given year, there would be an opportunity to present the medal in recognition of something that somebody had done. I do not envisage that we would have a system of first, second or third-class awards.

Marlyn Glen: Sorry, my question was not clear. I meant a hierarchy involving the Scottish award and UK awards—brave and braver, so to speak.

Christine Grahame: The medal would be completely different. It would be more like freedom of the city or civic awards in towns, which are given to citizens. The award would be localised to Scotland. The person's action might have had international repercussions, but that is not the point. It could be a small thing, such as the young men in Penicuik did. As I explained, in that case recognition had to come from an outside body. Alternatively, the award might be given for something really big. The consideration would be about the quality of what was done in the circumstances, rather than the national import of the action.

John Wilson: Do you have a view about how the award would be decided? Would it be the Government, the Parliament or some other body that decided, or are you not sure?

Christine Grahame: I do not know. If the proposal was taken up, that would be an issue for consultation. We would look for people's nominations for the award—the ideas would not be from us. All kinds of systems might be put in place. That should be open and free flowing. However, we should establish the principle that there should be a St Andrew's award for deeds of civic valour in Scotland. That is pretty much the suggestion. The mechanisms would be a matter for others to decide on.

Robin Harper: On the principle that it is good to have as many ways of rewarding people for good deeds and performing civic duties as we can possibly invent, I am certainly not against Bill Butler's proposal that we refer the petition to the Government for an opinion. The award could be a good thing.

Christine Grahame: Convener, may I say in conclusion, on a light-hearted note—

The Convener: I have a funny feeling that I cannot stop you.

Christine Grahame: I was just going to say that I understand that the petition would be referred to my colleague Alex Neil. His wife asked me to say that if the award goes ahead, she wants to be the first nominee, because she has been married to him for 30 years. I said that I would put that on the record.

Bill Butler: That is without remission, I believe.

The Convener: A medal for active suffering for Mrs Neil. When I think about it, we should probably have one minted for us, too.

We should write to the Government to get clarity on its views. Obviously, the Scottish Government will have a dialogue with the UK Government on the broader honours system, irrespective of what some of us might feel about its value over the years. Government has introduced similar measures. For example, Edwin Morgan was appointed the Scots makar in recognition of his role. The former Executive and the present Government have considered recognising key contributors to Scottish arts and literature. There are issues on which we can have broad discussions. I welcome the recommendations from members that we raise the issue directly with the Scottish Government to find out what dialogue has taken place. Perhaps we can find something that would benefit the present honours system and which recognises that we have had a Scottish Parliament since 1999. To be fair, I should mention the other devolved assemblies, which reflect the diversity of the UK. Do members agree to the recommendations?

Members indicated agreement.

Great Britain Football Team (PE1233)

14:45

The Convener: PE1233, by Craig Brown, calls on the Scottish Parliament to urge the Scottish Government to consider what impact the creation of a Great Britain football team at the Olympics or other sporting event would have on the promotion and support that it and other public bodies such as sportsotland provide for football as a means of encouraging a healthy lifestyle, as well as generating economic and social benefits.

Again, Christine Grahame has expressed an interest. I will allow her to speak to the petition—I am being very generous this afternoon—before we go on to the question session.

Christine Grahame: Convener, I apologise for the double whammy. As members can see, I am not Craig Brown, but I know that members want me here in his stead.

This is quite a serious issue. From press reports at the weekend, it is clear that there is a great divide on the issue between, on the one side, FIFA and the Scottish Football Association and, on the other side, Westminster politicians. It has been clearly stated—Sepp Blatter has now changed his tune on this—that a GB team in the Olympics

"would mean the end of Scottish, Welsh and Northern Irish football".

I notice that no mention is made of English football, but there we go. No clearer statement than that could be made. Sepp Blatter has moved his position. Originally, he tended towards the view that the GB team would be a one-off so the decision would not be binding. However, it is absolutely apparent that that is not the case.

With the convener's leave, I quote from the FIFA honorary vice-president, David Will. His letter states:

"People seem to have forgotten that at almost all of the FIFA Congresses throughout the 1980s, delegates, mostly from Africa supported by the Caribbean, raised objections to the existence of the four Associations and urged that they be combined into a single Great Britain Association. Also, of course, they objected to the right of the four Associations to have a FIFA Vice-President, the position which I held until I retired last year. Happily, these proposals were never accepted."

There is a history to the issue. The letter continues:

"I am sure that President Sepp Blatter and Secretary General Jerome Valcke, are being quite honest when they say that in their opinion a one-off combined team would not jeopardise the existence of the four Associations"—

of course, Sepp Blatter has since changed his mind about that—

"but unfortunately it is not within their power to guarantee

this. Such a decision could be taken only by the 208 members of FIFA at Congress.”

The thing is that Sepp Blatter’s decision cannot bind his successors. David Wills continues:

“I am also not convinced that we could depend on a unanimous vote in our favour in such circumstances even from all of the European Associations, many of which have their own agendas.”

Clearly, the decision would open up a can of worms.

I want to nail another suggestion, which I think has been made by the Conservatives. The letter from David Wills also points out:

“Finally, the suggestion made by some politicians that the four Associations should play a round-robin tournament, the winner to represent GB at the Olympics is, if anything, even more dangerous. For the four Associations to be obliged to do this also for the World Cup would be the perfect compromise solution for many of the FIFA world-wide Associations, who might not wish to attack the existence of the four Associations, but may still be jealous of our right to have four entries into the World Cup qualifying tournaments.”

Clearly, there would be unintended consequences if we were to proceed with a GB team.

That is the back-cloth to the issue, but Westminster politicians are not hearing that. In a recent exchange with the Secretary of State for Culture, Media and Sport, Andy Burnham, Pete Wishart put the following point:

“I am sure that the Secretary of State saw the remarks of FIFA president, Sepp Blatter, over the weekend. He supported the view of the Scottish Football Association, the tartan army, and the overwhelming majority of Scotland fans that a ‘team GB’ would threaten the independence of the Scottish football team.”

Pete Wishart pointed out that FIFA’s assurances are very fragile. The secretary of state replied:

“I profoundly disagree with the hon. Gentleman. Late last year, the FIFA executive passed a resolution specifically saying that the independent status of the four Football Associations would not be affected by the fielding of a British team at the London 2012 Olympics. ... the British Olympic Association wants to put forward a British football team, and it should be the strongest team that we could possibly field. No sanctions should be applied against any young person who wants to accept the call-up to that team and represent their country in their home-soil Olympics. To deny young people that opportunity would, I think, be a crying shame.”—[*Official Report, House of Commons, 2 March 2009; Vol 488, c 566-7.*]

That would be fine and well if having a team GB would not threaten the independent status of the other nations, but that is simply not the case. It is becoming clearer and clearer as we get into the legalities of the contracts that the legal position is that the assurances that were given would not be binding. Everyone is now aware of that.

Were a team GB to proceed, notwithstanding the ramifications for the other nation states

playing, imagine what would happen at league level and all the other levels at which people play. I am considering the matter as a member of the Health and Sport Committee. Scotland is generally accepted, I think, as the founder nation of football. People are football mad in Scotland. Children play it. What impact would there be on interest in the game?

This is a serious matter. The First Minister has made his position clear, but we have to make the matter clear to Westminster. Whatever our politics, it is crystal clear that if we were to have a team GB at the UK Olympics, we can say goodbye to a Scotland team playing internationally. It would open a can of worms or Pandora’s box—whatever metaphor we like—in that it would allow many nations that have wished to undermine the present position for many years a golden opportunity to do so.

Bill Butler: Everything that Christine Grahame has said is very interesting and thought provoking. That is normally the case. However, I am not sure that the member has addressed the actual content of the petition. It asks the Scottish Government to take measures

“to consider what impact the creation of a Great Britain football team ... would have on the promotion and support ... for football as a means of encouraging healthy lifestyle as well as generating economic and social benefits”.

We can extrapolate from that, and we can then go into the interesting debate that Christine Grahame has initiated. If we are going into that interesting debate, I might as well nail my colours to the mast. I agree with the SFA. I do not want, and do not see the need for, a GB football team. The round-robin tournament could set a very unhappy precedent with unintended consequences.

It is a strong argument that one FIFA executive, like one Parliament, cannot bind another FIFA executive in the future. I do not know whether the situation that we would all wish not to arrive at—in other words, Scotland, Wales, England and Northern Ireland not being able to participate as separate entities in European and world tournaments—would actually come to pass, but I really do not think that we should take that chance.

As a very young child, I enjoyed going to see Denis Law and Jim Baxter and others getting the usual draw against West Germany and not qualifying for the world cup in the 1960s. I like having a team to support on the international stage. As Partick Thistle are not realistically going to achieve that in club football for some time—

The Convener: They might any second, though.

Bill Butler: I would come down on the side of the SFA. I do not see the need for a GB team in

this case. I support the idea of a GB team for the Olympics, but not for football.

Nigel Don: The situation can more or less be summed up in one line. My understanding is that football is our national sport. I am sorry, but Great Britain is not a nation; we are four nations. To suggest that we have a Great Britain football team is to miss the point.

Robin Harper: I agree with everything that Christine Grahame and Nigel Don have said. It would be unconscionable to have a GB football team. It does not make sense, whether for the Olympics or for any other purpose.

John Wilson: I support what other members have said. The difficulty with the argument that a GB football team should enter the Olympics is that it has ramifications for the future not only in relation to FIFA and UEFA—the Union of European Football Associations—and the teams at national level, but also potentially at league level. Because of the way in which the structures were set up, we might find that some of our larger clubs in Scotland were classified along with other clubs from south of the border, Northern Ireland and Wales in relation to other competitions. That could have a disastrous economic impact not only for our clubs, but for the Scottish nation.

There has been—and there continues to be—speculation about some of our larger football clubs joining the English leagues. If FIFA and UEFA took the position that Scotland, Northern Ireland, Wales and England were to be classified not as four individual football nations but as a single GB nation, that would have a serious impact to the detriment of football in all four nations.

We should ask the Government to give us a clear view on what it thinks the impact would be if the proposal was implemented. Would it mean, as Christine Grahame suggested, that the smaller nations in FIFA would argue that, because the four home countries are not independent nations and are not recognised as independent nations under the Olympic banner, they should not be recognised as such in international football?

As I said, the proposal could have implications not only for international football but for national football.

Christine Grahame: I forgot to mention that it is estimated that football makes a net contribution of £174 million a year to the Scottish economy. Apart from its importance with regard to healthy living—I say to Bill Butler that I think I mentioned that en passant—we must also remember that it is a business. The proposal would have an economic impact at a time when we do not want any further deleterious impacts on the Scottish economy.

The Convener: I thank members for their helpful suggestions. In a sense, the petition makes assumptions about certain things that we need to address. The problem is that, in the comments that have been made during the past year or so, we have heard different perspectives from different organisations on what the issues are. It strikes me that it would be useful for the committee to write directly to FIFA and the other governing bodies to get their positions firmly on the record. At the moment, we are just hearing what Sepp Blatter said to so-and-so a year ago, what might have been said to George Peat, and what George Peat understands was said to him—and that is always a complex question when you know George Peat. Given the nature of the debate, that is understandable, but it would be useful to get specific answers on the positions of the various bodies.

The second point in the petition concerns whether there would be a material impact on the future of Scottish football. I think that the petition acknowledges that the issues are to do with many other factors and not just the idea of a GB team.

Christine Grahame: With respect, I clarify that the quotations that I read from—

The Convener: I thought that I was chairing the meeting, Christine.

Christine Grahame: I beg your pardon.

The Convener: I am trying to be helpful.

We need to get things on the record. The problem around the debate has been that we all have our personal views on whether the proposal is a good thing or a bad thing, and about whether it is a relevant thing. We need to get that nailed down, so it strikes me that we want to get answers to those questions.

Members have made positive suggestions about how we can try to move the issue forward. One member raised a concern about the second half of the petition, which is dependent on what we know is a firm position. I know that it is complicated, but we need to get to the heart of the matter and find out the positions of FIFA and the other bodies. I am fed up with hearing what different FIFA spokespeople are saying. We need to get its position nailed down so that the committee can make a decision on the petition.

I hope that that is helpful. Perhaps there will be other helpful suggestions.

15:00

John Wilson: I support the suggestion that we write to FIFA, but it is also important to try to get assurances from it that the response that we receive can be binding for a period of time to

come. Christine Grahame and others have pointed out that FIFA could say that no danger exists and that there would be no impact on the four nations competing in world football, but who is to say what will happen in the future? The world governing body could come together and somebody could put forward a motion that would dispose of the four teams' ability to compete in FIFA or any other international competitions, given that the four teams had competed collectively in the Olympics. I support the convener's suggestion, but can we get assurances from FIFA that there will be no impact in the foreseeable future on the four nations' ability to compete in international football?

Bill Butler: I agree with the convener and John Wilson. We should write to FIFA and ask it for a definitive response. Whether it can give such a response is another matter, but we should make the try and ask the question. We can see what its response contains and decide whether we want to pursue the matter. That is where we are. Doing anything else would be inappropriate.

Christine Grahame: I am sorry for being restless, convener, but I want to clarify for the committee that I directly quoted FIFA's honorary vice-president, David Will. Those quotations were not hearsay. The committee may wish to write to him on the matter.

The Convener: For clarification, the issue is not David Will's contribution; it is the reports of other conversations, including those in which UK Government ministers and the Scottish Football Association have been involved. Those of us who have been involved with football authorities over the years know that it is always useful to get down accurately on paper what they think.

Issues have been raised that we need to get addressed. I will add to what John Wilson said. We will summarise the continuing concerns and issues that need to be resolved or addressed before we can go any further forward. I hope that that is a constructive approach. I have had the privilege of being in the Scottish Parliament football team in the parliamentary shield competitions and of winning that shield three times in a row, against Northern Ireland, Wales and Westminster teams. That was a great honour, and we would not want to deny such honours to other boys or girls out there in the future. I never thought that I would get that in the *Official Report*, but I can now rest happy.

Bill Butler: You are suitably modest, convener.

The Convener: I made a minor contribution to those tremendous successes.

We are concerned about the issues that have been raised and we want to address them, which I hope we can do through the process.

Christine Grahame: Thank you.

Education (Scotland) Act 1980 (Appointment of Teachers) (PE1235)

The Convener: PE1235, by Darren Burnside, calls on the Scottish Parliament to urge the Government to amend the Education (Scotland) Act 1980 to remove the entitlement of a church or denominational body to approve the religious belief and character of prospective teachers so that any teacher, regardless of their religious belief, can teach in any school. Do members have any suggestions for how to deal with the petition? Some additional background information has been provided. Marlyn Glen is a member of the Equal Opportunities Committee, which has also considered the issue. Perhaps she can amplify what that committee has done. How can we progress the issue?

Marlyn Glen: The Equal Opportunities Committee considered the issue quite recently and has done some of the work that the Public Petitions Committee might have wanted to do. It would be useful for this committee to see the replies to the letters that we have written. The issue was raised after the McNab ruling. The Equal Opportunities Committee wrote to the Educational Institute of Scotland, which has replied. We also questioned the Scottish Minister for Community Safety and the UK Solicitor General, Vera Baird, who was here talking about the proposed UK equality bill. We have been considering this issue from an equalities point of view.

I have no problem at all continuing with the petition and asking the Scottish Government whether it intends to amend section 21 of the Education (Scotland) Act 1980. We could also ask the Government about guidelines for education authorities—although a letter has been received from the minister, Fergus Ewing, saying that such matters are up to local authorities.

I just wanted to give members of this committee some background information on the issue.

Robin Harper: Does Marlyn Glen think that it would be suitable for the committee to write to local authorities individually—perhaps to a selection of them—to ask them how they approach this problem?

Marlyn Glen: Possibly. It is up to individual local authorities how they do things. However, the committee's papers show clearly that teachers in denominational schools have to be approved by the church. It is up to local authorities how they go about that.

John Wilson: This question goes to the heart of employment legislation, as was clearly shown by the McNab case against Glasgow City Council, which was fought out at an employment tribunal.

That case came before a tribunal because of the recent change in the legislation on religious discrimination.

I hear what Marlyn Glen says about the work of the Equal Opportunities Committee, but the petition has come to this committee and we should do some work on the issue as well. The Scottish Government and the previous Scottish Executive have argued that it is up to local authorities how they deal with the appointment of teachers in the education service. However, there should be equality throughout Scotland in appointments to the education service. There is certainly an issue to examine in how we marry antidiscrimination law with what has been a tradition in the employment of teachers in education authorities. It would be useful for us to seek the views of a number of bodies on the best way of tackling what may be perceived as discriminatory practice in some local authorities. The approach throughout Scotland should be uniform. It may that regulation is required from the Scottish Government, or some other body, to ensure fairness and equality in the appointments process throughout the education service.

Bill Butler: We should also consider writing to the Scottish Catholic Education Service, the Association of Directors of Education in Scotland and the Educational Institute of Scotland, to ask whether revised guidance or amendments to legislation are required. It would be interesting to hear their views.

The Scottish Government must be asked whether it intends to consider amendments to the 1980 act, which would have to be done at the level of primary legislation if significant changes were intended. We should also ask the Scottish Government whether it plans to revise the guidance given to education authorities. Those are the central questions that must be asked and we have to get the Government's answers to those questions and the views of the organisations to which I referred before we can even think about what we will do with the petition.

The Convener: We can pull those things together and when we get the information in we will determine the next course of action.

I thank Marlyn Glen for bringing the information from the Equal Opportunities Committee to our attention. We need to explore the issue in more detail to try to shed light on how the legislation has been interpreted and the implications of the court case. We will take those recommendations forward: we will continue the petition and make inquiries with a variety of organisations.

Specific Learning Difficulties (Assessment of Children) (PE1237)

The Convener: PE1237, by David Ballantine, calls on the Scottish Parliament to urge the Scottish Government to consider the need for legislation to provide a standardised assessment of all schoolchildren by the age of eight to inform parents, pupils and educators whether the pupil is at risk of developing a specific learning difficulty. Are there any questions or comments on the petition?

Bill Butler: I suppose that we could ask the Scottish Government whether, in its view, legislation as requested by the petitioner is required and, if not, why not.

Marlyn Glen: It might be helpful to ask the Government to outline the existing provisions, to reassure the petitioner that schoolchildren are catered for. From my background as a support for learning teacher, I am not convinced that a standardised assessment across the board at the age of eight would achieve the results that the petitioner seeks.

It would be good to have the current provisions laid out so that we can see them. The Education (Additional Support for Learning) (Scotland) Bill is being discussed in Parliament this week, but I do not believe that anything like the provision that the petition calls for is in it. It would be interesting to bring the information on all the provisions together to see whether they meet the petitioner's needs.

The Convener: My only other observation, as someone who has a background in education, is that eight is quite a bit into the education process. I would expect there to be on-going assessment in the early years—pre-five and in the early part of infant school. I would like to get clarification from educators and the bodies with responsibility for those matters on the intervention strategies to address the issue.

The Education (Additional Support for Learning) (Scotland) Bill is up for further debate this week and there will be some criteria in respect of that legislation. We must get clarity from those involved in the process about how best to intervene. The petitioner's intention is laudable, but the issue is how best to deliver it. I am not convinced that a statutory legislative framework that says that there will be standardised testing at the age of eight is the most appropriate tool, but we must find out whether other mechanisms are in place to deliver the appropriate assessments, so that we do not face such difficulties.

Robin Harper: I have a feeling that what lies behind the petitioner's concern is that some young people are not diagnosed with various problems that they have with learning until a fairly late stage.

However, an across-the-board set of diagnostic tests at age eight might not be any better than the current systems that are in place to identify children who have problems and give them the appropriate tests to ascertain which problems that affect their learning should be addressed. Everybody sympathises with the petitioner's intent, but we need to find out from the Government whether its view is that the diagnostic elements that the petition wants us to address are better addressed in other ways.

15:15

John Wilson: When we write to the Government, it might be useful also to write to the EIS to find out whether any issues have been identified by teachers on the front line. As Robin Harper indicated, many teachers are not aware of some of the symptoms that may develop in children who have additional support needs. It would be useful to find out whether the EIS has done any work on the issue, particularly in primary schools.

We could also perhaps write to the Convention of Scottish Local Authorities to find out whether it has identified, through its education committee, how the Education (Additional Support for Learning) (Scotland) Bill may impact on local authorities. Although the Parliament can pass the bill, it will be up to local authorities to implement it. From my own experience, I know that local authorities throughout Scotland have different ways of dealing with supported needs and the assessment of supported needs, so it might be useful to ascertain whether COSLA can indicate how local authorities are dealing with the issue and what implications there may be once the bill is passed.

The Convener: We will take forward those recommendations from committee members, keep the petition open and explore the options.

We will have a brief comfort break.

15:16

Meeting suspended.

15:22

On resuming—

Current Petitions

Criminal Memoirs (Publication for Profit) (PE504)

The Convener: Item 4 on our agenda is consideration of current petitions.

Petition 504 calls on the Scottish Parliament to take the necessary steps to stop convicted murderers or members of their families from profiting from their crimes by selling accounts of their crimes for publication.

As you can tell from its number, the petition has been in our system for a considerable time.

Nigel Don: This is a classic case of a long hike involving two steps forward and one step back. This morning, on the Justice Committee, Bill Butler and I were involved in consideration of a legislative consent motion on the Coroners and Justice Bill that is going through Westminster at the moment. The LCM would bring into Scottish law provisions from that bill that would do something about the problem that the petition addresses. However, as of this morning, the Government has decided to withdraw that LCM because of other issues. The Cabinet Secretary for Justice advises us that the part of the bill that concerns this petition will be back on the agenda soon, together with various things to do with fatal accident inquiries.

I think that we can assume that the matter is being dealt with. However, unfortunately, the progress is not quite as fast as we had hoped that it might be.

The Westminster legislation reflects the civil approach and would enable damages to be sought from those who are gaining from the kind of activity that the petition deals with. However, the legislation is not comprehensive. It is a bit of a sieve, as it were—there is a lot of metal there, but there are also many holes. One of the holes that I pointed out in the Justice Committee this morning is that, if I were a seasoned criminal, although the bill would prevent me from writing my memoirs, my son might be able to write them for me and retain any benefit that would derive from doing so, which is clearly unsatisfactory.

We are going in the right direction, but we do not yet have the whole answer. The bill will come back to Parliament in some form, and we will have to see whether, in time, we can make it more comprehensive by ensuring that there is more metal and fewer holes.

Bill Butler: I confirm what Nigel Don said. It is unfortunate that the legislative consent motion has been withdrawn. Some of the Government's reasons for withdrawing it are clearer than others, and we are seeking clarity on those that are less clear.

It still might be a good idea to write to the Scottish Government to ask whether the consultation paper on defamation will be published and, if so, what the timetable for that is likely to be.

John Wilson: It might be useful to inquire whether there is an opportunity to take action under the Proceeds of Crime Act 2002 against anyone who might seek to profit from their crimes by writing or serialising a book about them. We could also explore whether those provisions might also apply to members of the criminal's family.

I see that the clerk is studiously examining the paperwork.

The Convener: Fergus, you have been named by a member, so you are allowed to defend yourself.

Fergus Cochrane (Clerk): The summary of responses to the Government's consultation on proposals to prevent criminals from profiting from published accounts of their crimes, which was published in January, says that the Law Society of Scotland favoured the civil route, but pointed out that

"civil recovery under the Proceeds of Crime Act 2002 would not be applicable and, accordingly, new measures require to be introduced."

John Wilson: If that is the case, we should look to the Government to revise the proceeds of crime legislation. My understanding of the point of the legislation was that it was designed to prevent anyone from profiting from criminal activities. Clearly, that should cover someone receiving money for writing a book about those activities, as that would mean that they were profiting from crime.

We should write to the Scottish Government to ask whether it intends to review the legislation. It might not be possible to ensure that all issues of concern are covered, but it should be possible to deal with some of them.

The Convener: Members have made a few useful suggestions. Do we agree to pursue them?

Members indicated agreement.

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

The Convener: PE812, by Caroline Paterson on behalf of Stirling Before Pylons, calls on the Scottish Parliament to urge the Scottish Government to acknowledge the potential health

hazards associated with long-term exposure to electromagnetic fields from high-voltage transmission lines and to introduce as a matter of urgency effective planning regulations to protect public health.

A series of questions has arisen from our correspondence on this petition.

Nanette Milne (North East Scotland) (Con): We should ask some questions of the Scottish Government. Clearly, there is a desire for the cables to be buried underground, and the petitioner has indicated that the costs of that might not be as high as was previously assumed. I wonder whether we could get a comment from the Government on that issue. If it were possible to place the cables underground, that would satisfy all sides.

15:30

Nigel Don: The underground cabling of high-tension wires is not in my back yard and therefore not a problem for me, but the science of it worries me a great deal. I am looking at three different papers. The first is the Government response, which says:

"We are confident that the HPA is diligent in its approach, and we see no need to make any additional approaches".

Yet I have a comment from the petitioner that says:

"If Committee members were to read just three of the reports"—

I confess that I have not done so—

"I doubt they would describe the evidence as either 'limited' or 'weak'".

Then I find a contribution from Denis Henshaw, a professor of physics from the University of Bristol. He says:

"I have concluded that sending scientific papers to members of the HPA serves no purpose—they will simply be ignored."

I find myself thinking that there are people who are not communicating with each other; somehow or other people are not listening to what they are being told. There is a body of scientific evidence, which might be refuted by another large body of scientific evidence, but I am not seeing the two parts being put together by somebody forcing the answer out. We are looking at people who are taking an entrenched position that says, "We do not have to worry about this." The lesson from history is that we do have to worry about such things. If there is one lesson to be learned from the current financial mess it is that the people who should have been the gatekeepers were not. If we do not understand simple things such as money, how easy is it to misunderstand difficult and

complicated things such as science and electromagnetism?

We should get back to the Government and say that it should not be saying that it is confident that everybody is being diligent because, frankly, it is not entitled to be confident. I do not mean any personal disrespect to the people concerned. We should also ask that, if there is other evidence around, the Government reviews that evidence and shows us the review and the opposing evidence.

Robin Harper: I agree with Nigel Don, who puts it neatly that people need to listen to each other. Whether or not we have a notion to agree with evidence, it must be considered and be seen to be considered. That does not appear to be the case.

Bill Butler: I tend to agree with my colleagues. We should write to the Government to ask whether it is 100 per cent content that no public health hazards are associated with long-term exposure to electromagnetic fields from high-voltage transmission lines. Additionally, we should ask the Government whether it is confident that there are no long-term risks to public health from EMFs—for example, the possible increase in Alzheimer's disease. We should also ask which other European nations take a different view on the matter and why. All those questions are appropriate and I hope that the answers will be illuminating.

John Farquhar Munro: Like the rest of the committee, I am confused about the situation. You read one paper from the proposers of the scheme and they are convinced that there is no detriment to human life or habitation and yet the objectors are equally professional in their contrary view. As my colleague Mr Butler was saying, I do not think that the Government—or any Government—can give an absolute guarantee that overhead transmission lines in close proximity to habitations or groups of people are absolutely safe and do not cause physical damage to individuals. We have to be very careful which way we go; after all, one big and very topical issue is the transmission line from the north of Scotland down to the central belt, and a lot of evidence out there suggests that it will have a very detrimental effect. As a result, I feel that the precautionary principle should apply.

John Wilson: I echo John Farquhar Munro. The World Health Organization has recognised that there are degrees of plausibility with regard to the impact of such lines, and one need think only of things such as asbestos and nuclear power that we were told were safe and would benefit communities but that have had, as we are only beginning to realise, a real impact on people's lives. We need to get the Health Protection Agency to consider the evidence that, as Nigel Don indicated, has been published by the

University of Bristol and others, to take the matter seriously and to err on the side of caution. The HPA has said that on the evidence that has been presented it is, on balance, still in favour of the installation of such transmission lines; however, the difficult issue is the long-term impact of high-voltage transmission lines on communities. We heard earlier about a possible link with Alzheimer's disease, and there might also be links with leukaemia clusters. Those concerns must be taken on board, particularly by the Health Protection Agency in its consideration of the evidence.

Moreover, as members have pointed out, we must examine what has happened not only in Europe but in other parts of the world. For example, a lot of evidence about energy generation has come out of the United States, and it might be useful to seek reassurance from the Health Protection Agency that it is considering examples and evidence from around the world, instead of simply relying on evidence that it has been presented with and its own view that, on balance, such evidence is better than that produced by certain academics who have expressed concern about high-voltage lines.

Marlyn Glen: It is really important that we follow the option to seek specific comments on the updated opinion of the European Union's Scientific Committee on Emerging and Newly Identified Health Risks.

The Convener: Members have raised specific concerns about the evidence base and highlighted the need for further information on the long-term impact of these lines, and I ask the clerk to pull those points together. Although the petition has been in the system for a while, the issues that it raises have not been resolved. I recommend, therefore, that we keep it open and follow through on the points that members have raised.

National Planning Policy Guideline 19 (PE1048)

The Convener: PE1048, by Kitty Bell, calls on the Parliament to alter national planning policy guideline 19 in order to correct an anomaly in paragraph 21.4 and ensure that the precautionary approach also applies to pre-school children, and all children at play, thereby giving them the same protection from telecommunication masts as that given to their older brothers and sisters attending primary or other schools.

Do members have any comments or suggestions about the petition? I point out that it has been in front of us before and that we have interrogated the issues that it raises.

John Farquhar Munro: The procedure that we suggested with regard to the previous petition

should also apply to this petition. There is no concrete evidence that no harm is done by such installations, and I believe that the precautionary principle should apply to the issues that have been raised.

Nanette Milne: The Government seems to state fairly clearly that no anomaly exists and that the precautionary principle applies equally to pre-school children and schoolchildren. If that is the case, however, surely it is reasonable for that to be stated somewhere. In fact, I think that such a move would satisfy the petitioner. As a result, I suggest that we ask the Government whether, having reiterated the same point on a number of occasions, it could make its policy absolutely plain—or have I misinterpreted something?

The Convener: As the options paper points out, the Scottish Government has copied to local authorities its response to the committee, which makes clear its policy that, in such cases, the precautionary principle applies. I acknowledge John Farquhar Munro's point with regard to the previous petition, but perhaps the background material on this petition is enough to indicate that, in this case, the principle applies as much to kids in nurseries as to kids in primary schools. As a result, members might wish to close the petition, but we should ensure that those who have responsibility for such matters inform the petitioner directly about the current position.

Nanette Milne: I think that that is what I am trying to say. The Government seems to be clear about its position, but the petitioner is not, so perhaps some way should be found of stating the position categorically.

The Convener: Does Gil Paterson wish to comment?

Gil Paterson (West of Scotland) (SNP): If you do not mind, convener. I am very grateful for the opportunity to do so.

Nanette Milne has already expressed the point that I wanted to make. The Government says one thing; the petitioner says another; and local authorities—I believe—think something else. The Government has stated quite clearly that the precautionary principle extends to designated play areas, nurseries and so on. However, the one fault that I find in its argument is that that position has not been communicated properly to local authorities, which, after all, are responsible for planning regulation. Instead of simply saying that the precautionary principle is there to be utilised by councils, we need to send out a clearer message to councils that the principle must also cover tots playing in designated play areas. I think that that is the anomaly that the petitioner has referred to—I also think that the Government has a case to answer in that respect.

We have been waiting a long time for the promised review of this matter—in fact, the wait has now stretched over two Governments—and it would be good to find out when it is actually going to happen. The scientific community has not been definitive in its statements on the effect of microwaves on people, never mind children. It is argued that what is important is not the power of microwaves that are emitted from the masts, but their frequency, which is very much in tune with the brain's own signals. As I say, there is a case to answer, and I ask the committee to ask the Government to clarify with local authorities that toddlers are protected in these circumstances.

The Convener: I get a sense that we are nearing the end of our consideration of the petition, but that we need to get absolute clarity on that point. Do members want to ask the Government to issue to all local authorities the guidance that we seem to have been given to ensure that they are fully aware of the policy that the precautionary principle applies to all educational establishments, irrespective of the age of those attending them? If so, according to the committee's rules, we have to keep the petition open. However, I hope that we will be able to arrive at a conclusion that is satisfactory to the petitioner.

Robin Harper has a quizzical look on his face. I do not know whether that is a permanent expression or whether I have caused it.

Robin Harper: It is merely semi-permanent.

I wonder whether we should also ask the Government to reply to the seven specific questions that the petitioner has raised in her submission to us. That might help to clarify matters.

The Convener: We would be happy to do that.

Are members happy with those recommendations?

Members indicated agreement.

The Convener: Thank you very much.

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

15:45

The Convener: PE1059, by Andrew Morton, calls on the Scottish Parliament to urge the Scottish Executive to support a ban on the sale and use of air-guns, except for certified pest control purposes or use at registered gun clubs. Members have had a chance to debate some of the issues both in committee and elsewhere in the Parliament, but are there any views on how we might deal with the petition?

Bill Butler: I do not know whether we can usefully do anything further on the petition, given that the Home Office has indicated that it keeps control of air weapons under scrutiny and will work with the Scottish Government to tackle the issue, especially through the enforcement of new laws.

The Convener: The petition deals with an important issue. I know that the Cabinet Secretary for Justice is endeavouring to address public concerns about the matter. He is in dialogue with the Home Office in order to get a satisfactory solution. I recommend that we close the petition, on the basis that the committee has taken it as far as it can. Ultimately, the matter is best determined by dialogue between the cabinet secretary and the Home Office.

Nigel Don: I endorse that view—we have gone as far as we can. Along with the cabinet secretary and many others, I am not happy about how far the Government has been able to get on the matter, but that does not mean that the committee has not taken the petition as far as it can. The issue is firmly in the Government's court.

John Wilson: Nigel Don is right to state that the Cabinet Secretary for Justice has attempted to go as far as he can within the powers of the Scottish Government. The difficulty is that legislation on the issue is reserved. The cabinet secretary should be applauded for the work that he is trying to do in the area. I hope that, by working closely with the UK Government, we can bring about a change that will take many air-guns out of society. I hope that they will be regulated sufficiently to prevent incidents from recurring in communities throughout Scotland and that the cabinet secretary will be able to impress on UK ministers the need for consistent action to take air-guns out of society.

The Convener: I am happy for those points to be on the record. We will close the petition, but we hope that the dialogue between the cabinet secretary and the Home Office will produce a satisfactory solution.

Cancer-causing Toxins (PE1089)

The Convener: PE1089, from Morag Parnell, on behalf of the Women's Environmental Network Scotland, urges the Parliament to urge the Government to investigate any links between exposure to hazardous toxins in the environment and the workplace and the rising incidence of cancers and other chronic illnesses. The committee has considered the petition in the past. Do members have any observations or comments?

Robin Harper: Over the past 12 months, the Women's Environmental Network has done a huge amount of work to gather evidence and papers from across Europe on the presence of

hazardous chemicals and toxic substances in our daily lives. It could be of great advantage to the Government at least to meet representatives of the network to canvass the breadth of evidence that it has assembled and to decide how to take that forward.

John Wilson: In the past couple of weeks, legal action has been taken down south, especially in Corby. A group of women have taken legal action against Corby Borough Council over the disposal of materials from former industrial sites. In their court action, the women claim that the materials that were disturbed went into the atmosphere and may have led to birth deformities. A victory for the women in the case will indicate that the hazardous materials that are on many industrial sites pose potential dangers to unborn children and their mothers.

As Robin Harper indicated, the Women's Environmental Network must be applauded for raising the issue of the environmental toxins that we come across on a daily basis. Another issue is the industries in which women find themselves working. We all know about certain watch manufacturers' use of phosphorus during the war. That led to health issues for women in that industry.

Constant awareness and constant vigilance are required to ensure that people are not put into potentially hazardous situations either at work or in the home environment. Robin Harper has suggested that we ask the Government to meet the network to discuss how to make progress on the issue, but it might be useful to keep the petition open so that we can find out the outcome of the on-going court cases. There might be further court cases, depending on the decision in the case involving the women in Corby.

Nanette Milne: We are talking about a massive issue that goes way beyond Scotland's boundaries. Given that it affects the entire developed and developing world, it is not something that a Scottish Government in isolation could take significant action on. However, I agree with Robin Harper. As the network has done a huge amount of work on the issue, it would be an excellent idea for it to have discussions with the Government and to make some useful suggestions that the Government could pick up.

The Convener: There is consensus on that issue. We will pull the various suggestions together.

Marlyn Glen: I agree with everything that has been said. It is a global issue. Information on cases such as those that have been mentioned is being collected all the time by groups such as the Women's Environmental Network. If the Government were to meet the network and to set

up a working group to investigate the issues, there might well be measures that we could take in the devolved context. The network gives the example of the use of plastic bottles for babies. Parents need to be educated about the potential difficulties from putting plastic into microwave ovens, and the Scottish Parliament could definitely play a role in such educational matters. Work should continue to be done on the issue, and I would be interested to get an update on how the Scottish Government gets on with that.

Nigel Don: I do not want to denigrate anything that has been said so far about an issue that is of immediate importance, but I would like to try to take us on a step. There are two things that I remember from the days when I was involved in industrial research—that was 30 years ago, horrifyingly. One was that the head of the lab that I went into put out a list of chemicals that would not be allowed in the lab because they were known to be dangerous. We were just not allowed to have them, full stop.

I also remember the emergence of a list of chemical attributes—if you like, things that we could say about a chemical that told us that it was likely to be carcinogenic. The discovery of such characteristics told us that it would be wise not to proceed in a particular direction, because it was becoming clear from general chemistry that the chemical ingredients in question were probably not good.

Toxins in the environment are a national and international issue, but then so is CO₂ in the atmosphere. The planet has more or less got its head around that; dealing with it is a longer-term problem, of course. Perhaps we should encourage the Government to find out for us what global organisations worry about chemistry and dangerous chemicals and provide international advice on substances that should not be produced, so that those who are in the business have the best current advice on where they should not be going. It is in no one's interests to generate dangerous chemicals in any quantity at all. If we can identify such chemicals globally, surely we should disseminate the necessary information rapidly.

The Convener: We will pull together those positive suggestions about continuing to interrogate some of these issues and we will keep the petition open. The Women's Environmental Network Scotland is holding an exhibition in the MSP foyer for the next two days, which will give us a chance to meet the representatives of the organisation and explore the issues with them. Members should do that if they have time over the next couple of days.

St Margaret of Scotland Hospice (PE1105)

The Convener: We have had PE1105, by Marjorie McCance, on behalf of St Margaret of Scotland Hospice, before us for a considerable period of time. We are aware of what the petition calls for. We have with us a couple of parliamentarians—Gil Paterson and Des McNulty—who have expressed an interest in the issue and wish to say something about the petition. I invite Des McNulty to start.

Des McNulty (Clydebank and Milngavie) (Lab): The petition has two strands. One is to do with the proposal by Greater Glasgow and Clyde Health Board to withdraw funding from continuing care at St Margaret of Scotland Hospice. The other strand is about the method of funding for hospices and the impact that that has on St Margaret's. I do not want us to lose sight of that point.

The focus of the petition has been on the proposal to withdraw funding from continuing care. St Margaret's currently provides 30 beds for palliative care and 30 beds for continuing care. Even on the palliative care side, it is one of the larger hospices in Scotland. It is the oldest hospice in Scotland. The continuing care patients receive very similar care to that which is given to end-of-life patients. The skills involved in dealing with both types of patient are, in effect, interchangeable, which is why it makes sense to provide continuing care and palliative care in the same context.

The health board indicated that it wished to discontinue the provision of continuing care at St Margaret's by April 2009. That has been hanging over St Margaret's for a considerable period—certainly for the past 18 months. It has caused a huge amount of anger and resentment locally, particularly among people whose relatives have been patients in the hospice, which is a well-known institution, not just in Clydebank but throughout East Dunbartonshire, West Dunbartonshire and a significant section of the western side of Glasgow.

St Margaret's offers outstanding care—no one has said at any point that the care that is provided there is anything other than outstanding. In fact, I would say that it is a beacon for the type of care that people with such needs should be receiving.

In 2001, the health board proposed that, in reviewing continuing care as part of a rationalisation from its point of view, it would build a new continuing care unit at the site of Blawarthill hospital, where the scope of provision was being altered. In 2005, there was a needs review—the balance of care review—which said that a smaller amount of continuing care was needed in the north side of Glasgow than had been needed previously.

The health board decided that continuing care at St Margaret's was surplus to requirements, while continuing with its previously agreed plan to build the 60-bed continuing care unit at Blawarthill. Much of the debate has been about the logic of that decision and whether it was correct.

To St Margaret's, it seemed entirely inappropriate that the care that it provided, which was not considered to be under any threat when the decision was made in 2001 to rebuild Blawarthill, should be the victim of the decision that NHS Greater Glasgow and Clyde took in 2005.

16:00

The health board offered St Margaret's two options. The first was that it would become, in effect, a nursing home that would provide care facilities with a nursing component, funded by the local authority. The other option was that it would continue to receive funding to deal with national health service patients, but would become a specialist provider of continuing care for people with mental health problems.

St Margaret's took the view that both those proposals were inappropriate in a hospice context. With regard to the first proposal, it felt that people who had a significant amount of life ahead of them would feel concerned about being cared for in a hospice, the prime purpose of which is to deal with people who are very sick or at the end of life. With regard to dealing with mental health patients, the hospice asked why, if NHS Greater Glasgow and Clyde had identified that need, it was not catering for it in its plans for Blawarthill, which has yet to be built, rather than telling St Margaret's that it should fill that gap.

It is not for St Margaret's to decide what should or should not be put in place at Blawarthill. St Margaret's was concerned that its top-quality provision was viewed by the health board as being somehow dispensable. One question that arises is whether NHS Greater Glasgow and Clyde in a sense decided that it, and no one else, should provide continuing care—in other words, that such care should not be provided by a voluntary sector or charitable body—without making clear that policy intent. It has never stated that that is its policy, but that is the substance of what it has been trying to do.

It is fair to say that there was a substantial public campaign around the issue. The petition gathered more than 100,000 signatures, which makes it the second biggest petition in Scotland since devolution—the larger one related to children's hospitals in Glasgow. It has been a significant campaign, and the health board has not managed to convince the public—or me, Gil Paterson or the

other politicians who have been involved—of the rightness of its case.

Last Tuesday, the health board met to discuss a paper on what to do about St Margaret's. The essence of the paper's recommendations was that continuing care provision should be withdrawn from St Margaret's in early 2012 rather than in April 2009 to reflect the realities of the situation. The new Blawarthill building has not been started yet—there is no logic in a potential transfer of patients from a high-quality, relatively new-build facility at St Margaret's to something that has not yet been built less than half a mile up the road.

As part of its recommendation not to withdraw funding until 2012, the health board agreed to serve notice on St Margaret's that continuing care would be withdrawn from 2012. It appeared to me and to others that there was no logic in making that decision at that particular time or in the decision itself. Both points are important.

Why decide three years in advance to withdraw care at a facility when one or more reviews could take place between now and 2012 that might affect that decision making? The health board seems stubborn to us. It recognised that its decision to withdraw continuing care from St Margaret's could not be achieved sensibly in 2009, but it still intends to go ahead with withdrawal in 2012.

The health board has agreed to further discussions on expanding palliative care provision at St Margaret's, so the proposals in connection with the nursing home facility and the provision of specialist mental health care are in effect off the table. Future discussion will be about palliative care. Currently, match-funding arrangements apply to palliative care—the hospice would be reimbursed for up to 50 per cent of agreed costs for such care. The hospice is fully funded for continuing care with about £1.2 million, but the financial environment would be entirely different if the 30 beds for continuing care were converted into hospice beds and the hospice had to gather in from additional personal contributions 50 per cent—or 50 per cent plus a wee bit—of the funding for such provision. Great financial uncertainty is associated with that arrangement.

The petition highlights the fact that the match-funding system creates huge discrepancies in the amounts of support from the NHS that hospices receive for hospice beds. St Margaret's receives £31,000 per bed per year, whereas the Scottish average is £86,000 per bed per year. Some hospices receive up to £200,000 per bed per year from their health boards and one hospice in the Highlands receives more than £300,000. Such huge variations in how hospices are provided for are intolerable.

The committee should continue to pursue vigorously the funding implications because of the clear discrepancy. That discrepancy is not shown just by the figures from St Margaret's—some endorsement of the hospice's calculations has come from the Auditor General for Scotland. The figures that have been put into play are official and highlight an anomaly.

The health board's decision about St Margaret's was wrong. Concerns were expressed about the conduct of the meeting at which the decision was made and about how the decision was made. However, now that a decision has been made, that can bring into play a role for the Cabinet Secretary for Health and Wellbeing, who is ultimately responsible. Until now, she has said that she could not become involved in the decision-making process, because the health board had yet to make a decision. The health board has now made a decision—I believe that it is the wrong decision.

As an elected member, I will ask the cabinet secretary—with, I hope, the support and participation of elected members from other political parties—to review the decision and perhaps subject it to the independent scrutiny process that she has instigated for other decisions. The health board's decision meets the criteria for using that process.

From previous consideration of the petition and—I hope—from what I have said today, the committee will be aware of questions about how such decisions are made and about the role of the Parliament and its committees in questioning how health boards reach decisions. On the face of it, it is illogical to decide to build a new facility to replace an existing facility that offers perfectly good and well-supported care. A lot of public concern is felt about the health board's decision and there are technical arguments against it.

I personally think that there is win-win situation here for both Blawarthill and St Margaret's. If there is flexibility in the range of provision that can be provided at Blawarthill, it can be a perfectly sound facility and can complement St Margaret's, which can continue to do what it does very well. It is the rigidity and stubbornness of the health board in refusing to look at complementary situations that have caused such frustration among local people.

The Convener: Gil Paterson can speak now. He has a minute left.

Gil Paterson: I have been trying to change my notes in order not to repeat what has been said.

The health board meeting did not give a reprieve or stay of execution; it provided a facility to keep the beds in St Margaret's so that the health board could realise the potential from Blawarthill, which I think is unfair. Should the Blawarthill facility not come into play in three or four years' time, I think

that St Margaret's will be expected to pick up the slack. Again, I think that that is unfair. There were no real options for St Margaret's and it was a case of, "Here's what we've got for you." There were no deliberations on the St Margaret's option. I found it astounding that it was not mentioned at the meeting that 100,000 people had signed a petition to save the beds at St Margaret's.

It was also remiss that there was no reference at the meeting to the charitable status of St Margaret's and the fact that it has articles to abide by. I wonder what would have happened if St Margaret's had just agreed to what was proposed. I think that its articles would have had to be changed and I do not know what would have happened to its charitable status.

On the other hand, we should not look a gift horse in the mouth. We now have three years to work on the matter and prove our case. I think that the Public Petitions Committee should keep the petition going because there are good reasons to do so. There has been no answer to why Blawarthill should be preferred to St Margaret's. It seems inconceivable that a facility that has so much expertise and which delivers a service that, from all accounts and from my own personal experience, is second to none should suffer. Why try to replicate a place that does an extremely good job? That question should be answered.

The wider issue is the simple argument that we will need more continuing care beds rather than fewer. At the health board meeting, the representative from East Dunbartonshire Council proposed a delay of a few months so that we could see the direction of travel of "Living and Dying Well: a national action plan for palliative and end of life care in Scotland" and what it means for organisations and institutions such as St Margaret's. That proposal was supported by the representative from West Dunbartonshire Council, so it was supported by the two councils that know the institution better than anyone else does. I think that the proposal could easily have been accepted, as that would have gone some way to negating the belief that is held by most of us involved that the health board has not been fair to St Margaret's.

As I think the convener has mentioned at past committee meetings, it is clear that there is a gulf between St Margaret's and the health board. It is time that there was an independent individual—someone of status—to act as a go-between to bring the two parties together. That would be in the best interests not only of the hospice and the health board but of the wider Scottish community. I would be grateful if you did not kick the petition into the long grass at the moment. The committee has a role that is well worth playing.

16:15

Bill Butler: I congratulate the campaigners who wish to retain continuing care provision at St Margaret's hospice and have stopped the immediate transfer of the continuing care provision. To get the health board to reach even that point has been a bit of a trial, but 100,000 signatories expresses the clear wish of communities around St Margaret's hospice with regard to the issue.

I also congratulate the campaigners and MSPs who have been involved for not falling into the elephant trap of posing St Margaret's hospice provision against possible future provision at Blawarthill. That is the correct approach. My colleague Des McNulty was right when he said that Blawarthill is a sound facility, which can complement St Margaret's hospice. That is absolutely the way to go.

This is not the first time that the health board has not convinced the public of its policy. Its policy is seen as not resilient and not convincing. However, I take on board Des McNulty and Gil Paterson's point that there is still a threat to St Margaret's hospice because of the health board's decision that continuing care provision should be withdrawn by 2012. We should not be under any misapprehension about that. Indeed, as Des McNulty put it, the health board has served notice on St Margaret's that it will withdraw continuing care by 2012. That decision should be contested.

The second part of the original petition was about the funding of palliative care throughout Scotland, the inequities in that system and the fact that if there were to be an extension of palliative care—let us say at St Margaret's hospice—it would be on the basis of only 50 per cent of the costs at most. Matched funding would be sought to meet the costs, whereas continuing care is fully funded.

I throw in some suggestions. The committee was right not to set itself up as a mediator in the consideration of the petition. However, it is worth noting that no workable agreement has been reached between the two boards, despite several attempts to reach a compromise.

It is also sensible to acknowledge that the issues are now outwith the scope of the committee's remit. I am not arguing that we should close the petition at the moment, but the issues will have to be taken forward outwith the committee and by means of other channels.

We should note our disappointment that, despite the strong encouragement that the committee gave to the health board to consider seeking independent mediation at the earliest opportunity to resolve the situation, that has not been done.

We should keep the petition open and follow the suggestion that was originally made by Des McNulty, that we write to the cabinet secretary, urging the Government to subject the decision that was made by Greater Glasgow and Clyde NHS Board to the independent review process. In that letter, we should also urge the cabinet secretary to set up an inquiry regarding the funding arrangements for palliative care provision to ascertain whether they are fair or reasonable and, if they are not, how the Government would suggest that they can be made equitable.

Those are my suggestions to be thrown into the mix, convener.

Robin Harper: Bill Butler has covered just about everything.

The Convener: Right. Next petition, then.

Robin Harper: The Auditor General's report was referred to earlier. It might be worth asking whether the Auditor General has any further observations that he would like to make. We should stress our utter dismay that Greater Glasgow and Clyde NHS Board has not followed our suggestion that it give consideration to seeking independent mediation. I find that almost impossible to understand, given the difficulties of the situation.

John Wilson: It is no surprise to the committee that Greater Glasgow and Clyde NHS Board decided not to seek independent mediation, given the previous decisions and previous petitions that have come before the committee. Going to mediation means that both parties are prepared to talk, but the health board has decided that it does not want to talk about the issue—it wants to make decisions. The stay of execution until 2012 is just a stay of execution. My concern is that, once again, a health board is not listening to the views of the public that it is supposed to represent.

It is clear that the board is not prepared to go to mediation, so our only course of action is to keep the petition open and ask the cabinet secretary to set up an independent review body to review the board's decision and hold the board to account for that decision. The health board's decision has implications down the line that the board and others need to be aware of. Asking the cabinet secretary to set up the review body may take us some way towards having a full examination of the issues that are involved. At the moment, we seem to be having a one-sided debate in relation to the decision-making process.

Like other members, I believe that we should keep the petition open, write to the cabinet secretary to ask her to set up the independent review body, and wait for her decision on that. With luck, she will look favourably on the setting

up of the review body and we will then await its findings.

The Convener: I think that there is support among committee members for that suggestion.

Bill Butler: I would not want this to be lost, although I do not think that it has been. I think that, for the purpose of giving me comfort, in our letter we should also urge the cabinet secretary to set up an inquiry into the funding of palliative care throughout Scotland.

The Convener: I think that we are all okay with that.

I thank members for their contributions. I know that we have taken a long time over the petition, but that is down to the nature of the issue. I am becoming frustrated at the number of issues that are coming before the committee in relation to the way in which the health board handles matters. I therefore suggest that I write a letter to the health board, on behalf of the committee, indicating our concern about that. Is that agreed?

Members indicated agreement.

A82 Upgrade (PE1140)

The Convener: PE1140, from Alasdair Ferguson, on behalf of the A82 Partnership, calls on the Scottish Parliament to urge the Scottish Government to immediately begin phased improvements to the A82 Taret to Fort William road to improve safety and to bring that trans-European lifeline route to a standard that is fit for the 21st century. I understand that Jackie Baillie wishes to comment on the petition.

Jackie Baillie (Dumbarton) (Lab): Yes, on the basis that I get the same amount of time as my two colleagues who spoke in support of earlier petitions. No—I will be brief.

The Convener: If you took as much time as your colleagues, we could drive the length of the A82 in less time.

Jackie Baillie: Not without breaking the speed limit. In all seriousness, I recall sitting in Dumbarton burgh hall when the committee first discussed the petition. Without a doubt, improving the A82 involves substantial challenges, not the least of which is that in some parts there is a loch on one side and hills on the other. However, I recall suggesting that if we are capable of putting a man on the moon, it should not be beyond us to effect an engineering solution to that.

The A82 is included in the strategic transport projects review, but I—and, I suspect, the petitioners—have questions about the details. Before the committee considers closing the petition, it would be helpful to know what priority is afforded to the A82 in the strategic transport plan;

what resources are in place; what the likely timescale is for improvements and whether they will be phased; and how much more than the £16 million that is already committed for changes at Pulpit Rock and the Crianlarich bypass will be provided. I recognise and salute the work that the campaigners have done to bring the petition before us. I hope that the committee will keep the petition open until we bottom out the details that are required.

Bill Butler: I agree with Jackie Baillie, because the strategic transport projects review could have done with a bit more detail. Before we consider closing the petition, it would be helpful to find out what priority the Government will afford to the project. We should also seek assurances about the resources that are to be provided and elicit from the Government information on the timescale and whether the project will be phased. If it is to be phased, we should find out the Government's thoughts on how that will proceed. We need a little more detail from the Government. I am sure that Stewart Stevenson will be helpful in that regard—at least, I hope that he will be.

The Convener: Des McNulty wants to comment. You have one minute, Des.

Des McNulty: I support Jackie Baillie's comments, and I have two further points. One is that the project in the strategic transport projects review that relates to the A82 is about targeted improvements to particular stretches of road that are bad. The issue is not only about congestion; it is about the significant economic disadvantage to people who have to use the road because there is no alternative.

The second point is that the incidence of serious accidents, including fatalities, on the A82 is probably the worst for any Scottish road. Given the criteria that have been set and the way in which they must be applied, a special case can be made for the A82. It is at the extreme end of the spectrum, so we need early action on it.

The Convener: There is not much disagreement from committee members on pursuing those matters. I thank Jackie Baillie and Des McNulty for expressing an interest in the petition. Are members happy to keep the petition open and to pursue the issues that have been raised?

Members indicated agreement.

Community Prisons (PE1150)

The Convener: PE1150, from David Wemyss, on behalf of the Aberdeen prison visiting committee, calls on the Parliament to urge the Government to consider the issue of the scale and size of larger prisons and their location. We had

the opportunity to discuss the petition with the Cabinet Secretary for Justice when he appeared before the committee recently.

I know that a couple of members who represent Aberdeen or Aberdeenshire constituencies have expressed an interest in speaking to the petition. I will invite Lewis Macdonald and then Nanette Milne to give their views on the matter.

16:30

Lewis Macdonald (Aberdeen Central) (Lab):

Thank you very much, convener. Briefly, there are three points that I want to draw to the committee's attention to help it to decide whether to seek further evidence on the petition.

First, in his response to questions from committee members, the cabinet secretary talked about the importance of community-facing prisons—which is what the petition seeks—and he recognised the importance of families in the rehabilitation of prisoners. However, he also appeared to be adamant that the current prison in Aberdeen will close and that its replacement will open in another town. Therefore, it seems to me that the committee would be justified in pursuing matters further, particularly on the role of families in rehabilitation. Given that Families Outside has already provided a written response, committee members might wish to hear from that agency directly.

Secondly, in response to the suggestion that most prisoners at Aberdeen prison come from Aberdeen, the cabinet secretary cast up some different statistics about other prisons. However, since the cabinet secretary appeared before the committee, his response to my question S3W-20849 confirms that, as at 20 February, 133 of the 221 prisoners held in Aberdeen prison were from the city of Aberdeen as distinct from Aberdeenshire. That confirms that a community-facing prison for Aberdeen should indeed be situated in Aberdeen. That is not what is currently proposed.

Thirdly, the cabinet secretary suggested that the concerns that Grampian Police and others raised about security and transport were “absurd”. That seemed to me a surprising comment. I suggest that Grampian Police might be invited to respond to that.

Nanette Milne: I do not have much to add to what Lewis Macdonald has said. I agree that we should invite Grampian Police so that we can hear its viewpoint. Peterhead is a significant distance from Aberdeen. If the police have expressed concern about safety, we should follow that up. I also back up Lewis Macdonald's suggestion that we should invite Families Outside to give evidence as it is important that we hear from the experts on

rehabilitation. We could perhaps have an evidence-taking session with those two groups.

Nigel Don: I do not disagree with anything that has been said. The case for a community prison has been well made. Plainly, rehabilitating offenders is what we need to do, but we do not seem to be good at doing that at the moment. I am entirely supportive of the idea of community prisons.

What bothers me about the petition and the argument about Aberdeen prison is that we have already been round the houses on the issue. We have established that, for the foreseeable future, there will be no money in the budget to do what we would like to do. It is entirely clear that the money has been committed to the prison in Peterhead. Peterhead is further away than any of us would like, but that money is already committed. Despite the comments that have been made from all sides, no one has come up with an alternative location within Aberdeen. In his evidence to the committee, the cabinet secretary pointed out that remand jails and custodial jails are very different, so there is no question of being able to substitute one for the other.

There is no money for a solution in the short term. I point out to the other parties—forgive me for going slightly against the grain in making a political point—that no one suggested a budget that would have provided more money to deal with the problem. The budget priorities were clearly laid out and accepted. The situation is that, for the foreseeable future—certainly, that means for a few years—we are where we are and where we know we are. I sincerely hope that it will not be many years before we can reconsider the issue, because I agree that Aberdeen needs a community jail. However, that is clearly a few years down the road.

It is not entirely clear to me what point there is in keeping the petition open for what will be several years. If members are happy to do that, let us do so by all means, but we should not pretend that anything will be done in the short term, because plans exist but funds do not.

Bill Butler: I hesitate, as my colleague Nigel Don did, to say anything that could be construed as being party political, but I must start by saying that money is always a problem for Governments. I say to Nigel Don that that is the price of electoral success.

Although things seem to point to a community jail in Aberdeen being some way down the road, it would do no harm to hear from Grampian Police and suggested experts about rehabilitation and how community-facing prisons are more than probably better at progressing the rehabilitation of offenders. My colleagues Nanette Milne and Lewis

Macdonald have made reasonable suggestions. Costs have been talked about. The approach that has been suggested will cost the committee some time, but it would be helpful. If we agree to hear evidence, that evidence may inform us and the Government in the short to medium term or even the long term.

Nanette Milne: There is a degree of urgency in dealing with the matter. The recent report on Craiginches prison shows that it really is not fit for purpose, and it is clear that there is no money around to do anything about that at this time. However, it is important that we hear from the police, because no one has said that there is nowhere available in Aberdeen if it is decided that there should be a community prison in Aberdeen. I think that we have time to take evidence, as there is not even planning permission yet for the prison at Peterhead. There is time in the process to have another look at Aberdeen. I know that the cabinet secretary has set his mind against that, but hearing further evidence would be worth while.

John Wilson: I am not averse to hearing further evidence, but I have concerns about the issue of community-facing prisons and the rehabilitation of offenders who have been sentenced. I will make a political point. A number of parties that are represented in the Parliament have criticised the Government for going soft on locking up people for committing offences, but we have before us a petition that says that we must have community-facing prisons to allow people to have access to their families and the communities that they come from. There is a dichotomy in respect of what we are doing with the prison service and what it is there to deliver in relation to crimes and offences. The cabinet secretary gave us examples when he gave evidence to us. Polmont young offenders institution and Cornton Vale are based in central Scotland, but they have catchments throughout Scotland. The logic of the discussion is that there should be a community-facing prison in every community from which large numbers of people are being sent to prison. If that were the case, we would have to tear up the existing Scottish Prison Service rulebook and start again, but the resources that are available to the SPS to provide its service act as a reality check.

As Nanette Milne has said, it is clear that there are problems with Peterhead prison that we must resolve. It is antiquated and outdated. We must also consider what is happening elsewhere for Aberdeen. We must consider the best use of resources and balance that against what we are trying to do in prisons and what prisons deliver for society. As I have said, I would welcome opening up the debate and taking further evidence from those with opposing views on how our prisons can best be used in the criminal justice system. In

particular, I would welcome evidence from Grampian Police.

The Convener: It is perhaps time to move on, but I will first take comments from Bill Butler and Robin Harper. We will finish on that, I hope.

Bill Butler: I will be brief, convener—less than a minute I think.

I am glad that John Wilson is not against hearing the further evidence that colleagues have suggested. I would like to say, just for the record, that I have always been careful not to say that this Government, or any other Government, is going soft on crime. John Wilson and I would agree that soundbites do not produce real solutions. Our approach must always be balanced and rational.

The Convener: Consensus is breaking out all over. We will need to stop it.

Robin Harper: Also just for the record, I would like to say that I was glad to hear John Wilson proposing tearing up the rule book and having community-facing prisons. However, we are where we are. In this country, we jail more people per head of population than anywhere else in Europe does and we do less to rehabilitate them. We have to address that point.

The Convener: The petition raises broad issues; it does not concern only the location of prisons in the north-east. However, at the end of March the committee will visit Fraserburgh, which is a bit closer for individuals to come and give evidence. We can consider the issues that members have raised—the role of families in the rehabilitation process, and community-facing prisons in which the residents are from the local area. Constructive suggestions have been made. We will take evidence at our meeting in Fraserburgh on 30 March. We will invite evidence from a couple of the organisations that have been mentioned.

I thank committee members for their patience. Other members have been patiently waiting as well.

Young Offenders (PE1155)

The Convener: Our next petition is PE1155. I welcome Margaret Curran to the committee. The petition is from Elizabeth Cooper and calls on the Scottish Parliament to urge the Scottish 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. We have considered the petition before, but Margaret Curran may want to add her views on behalf of the petitioner.

Margaret Curran (Glasgow Baillieston) (Lab):

Thank you, convener—and I applaud your stamina in going through issues of substance. I will speed up.

The Convener: We had better watch for what is known as a Des moment.

Margaret Curran: I promise to be brief and to the point.

I thank you for your focus on the petition. My constituents want me to communicate a few simple points. They appreciate what the Public Petitions Committee has done so far, in facilitating a meeting with a civil servant working with the Cabinet Secretary for Justice. However, it is fair to say that my constituents have been left frustrated by the current position.

As I am sure the committee knows, the civil servant said that the Government does not want these attackers to go to adult prisons. My constituents do not want them to go to adult prisons either. They do not think that that would be appropriate. However, what is unacceptable to my constituents is that nothing happens. I will quote from a letter that was written to me. It says that the people

“who attacked my 13-year-old autistic son asked him for a kick of his ball and, because he asked for his ball back, they hit him with a brick. The oldest of the two who attacked him smashed his face against a slatted fence and then dragged his face along the fence, breaking his nose and then fracturing his cheekbone. They jumped on his back and his head. When he shielded himself under a fallen tree, they dragged him out and whipped him up and down his body with a rubber hose.”

That attack has had serious consequences, as I am sure committee members will appreciate. For example, the victim now spends all his time in his room and never goes out. The attack has had lasting and appalling effects.

All that my constituents are saying is that something should be done. They are saying not that the young people who perpetrated the attack should go to an adult prison or that we should lock them up and throw away the key, but that, in the interests of both the attackers and the victim, we cannot walk away from this crime and we must do something about it. Essentially, my constituents have been told, “Sorry, but there is not much that we can do.” They ask the committee, through me, to agree with them that that is not acceptable and something should be done about it.

16:45

Robin Harper: I have every sympathy with the family of the victim of this appalling attack and share their concern about the fact that nothing was done.

We need to be clear about the terminology. The petition calls on the Scottish Parliament to urge the Scottish 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. However, people are not tried by the children’s hearings system—they come to a hearing and are asked whether they accept the reasons for their referral to the panel. If they do not accept the terms of the referral, they should automatically be sent to court for trial.

It is not the place of any member of the committee to make observations on the case that Margaret Curran described or to suggest why certain things did not happen. However, I hope that one or two issues will be addressed in the children’s hearings bill that is to be introduced in June. My experience on a children’s panel comes from more than 20 years ago, but the situation is still the same. Because of a paucity of social workers, children’s panels have a continual problem finding social workers to take up cases. There is also a shortage of good secure accommodation. Sometimes panels would like to send someone to secure accommodation but find that there are no spaces. That is why some young people end up in jails, which should not happen.

The issue is about more than legislation—we need to find the money that is required. I am sure that the Government will have been reminded time and again of the problems that I have highlighted. The question is, will those problems be addressed in the discussions leading up to the introduction of the children’s hearings bill?

Margaret Curran: Robin Harper has made some serious and significant points. I understand that it is not for us to prejudge what a children’s panel heard. We understand why ministers do not get involved in individual cases—we cannot have politicians deciding the outcome of cases. However, the family in this case thinks that it is illustrative of a bigger problem in the system. That is the context in which they view the petition. Their frustration comes from the fact that, without providing a proper explanation for its decision, a children’s panel can decide to take no further action in a case that has been referred to it. All of us would challenge the decision to take no further action in such instances.

Like Robin Harper, I would like children’s panels to have many disposal options. I am not saying that the young people who carried out the attack that I have described should necessarily go to secure accommodation—that may or may not be appropriate—but doing nothing is certainly not appropriate, because that attack has had many ramifications locally. The Cooper family want the court system to examine such cases, because if it

did they would not have felt abandoned. That is a real issue.

Bill Butler: I know that all members are appalled by the serious assault that was carried out on the young man in this case, as described by our colleague Margaret Curran.

Was any reason given that can be alluded to why the Crown Office and Procurator Fiscal Service did not proceed with a criminal charge? Of course, young people who are charged with serious offences can be tried by the courts and not dealt with by the children's hearings system.

Margaret Curran: I have not been given a proper reason. The only reason that I was given was that it was deemed appropriate that the referral was made to the children's panel. When I tried to work out why the children's panel took the decision not to instigate any further action, I was told that that was confidential.

Bill Butler: Would it be useful to ask the Government whether it has any plans to instruct the COPFS in extreme cases such as the one in the petition to give reasons why it feels that it is inappropriate to proceed through the criminal justice system and instead to deal with them—or not, as the case may be—through the children's hearings system? The Government is entitled to consider that and perhaps even to ask the Crown Office to act in that way.

The difficulty is that the prosecutorial system is independent of the political system—it absolutely has to be. However, as a bare minimum, we should ask for an explanation of the route taken by the COPFS to be conveyed to the person who has been assaulted and their family, if at all possible.

As we all know, the Lord Advocate has discretionary powers in deciding whether to prosecute children—they have been prosecuted before, usually in relation to sexual offences. I agree that that discretion should be retained—it should not be changed.

My only suggestion is that we write to the Government to ask whether it has the power to seek such a response from the Lord Advocate and, if it does not have the power, whether it is contemplating changes that would require the COPFS to provide an explanation. I do not know whether that matter is *intra vires*, but we should at least ask the question. After hearing what Margaret Curran said, I am sure that we are all appalled by what the victim and his family have had to go through. The least we can do is ask the question.

Nigel Don: I echo what Bill Butler said. We should write to the Government to ask it to consider the options for requesting, requiring or advising the Lord Advocate to explain her decision

in cases that are perceived to be serious, and to consider whether, in serious cases—all sorts of definition problems spring to mind—the children's panel should be required to give reasons for its decisions.

As a parent, I sympathise deeply with the petitioners. We cannot turn the clock back and we cannot change our children, but we want to know why people did or did not do the things that we would think were appropriate. It does not seem entirely unreasonable to ask and to expect an answer, given that we are talking about very serious cases. That does not take away from the people who have to use their discretion, and who have the right to use their discretion. That is absolutely fair, because it is one of our protections. However, it is important that reasons are given when they can sensibly be given.

Marlyn Glen: I want to look at the other side of this. Should victim support be examined? Was any help offered? Could we do anything locally to give the young person support now?

The Convener: We will wrap up in a minute. Are there any final points from committee members? There is broad agreement that we want to keep the petition open and pursue issues relating to the guidelines or the understanding of the Procurator Fiscal Service and the relationship with the children's hearings system. Most of us want a children's hearings system that works well, that is credible and that has the consent of the public. We recognise that it is the most appropriate place to handle most issues relating to youngsters. However, in this case of extreme violence, there is a worry that something seems to have slipped through the net and that there was a lack of appropriate sanctions to give a strong message to the perpetrator that their conduct was unacceptable and to reassure the family that the system dealt with the case sensibly. There will be an opportunity to raise issues about the principles and the philosophy of the children's hearings system in our debates in the chamber on the proposed children's hearings bill.

Robin Harper: I would be happy to keep the petition open if only to allow us to have more discussion about the role that the children's panel plays. It has been an important part of the system that the deliberations are kept confidential, but it is important to stress that it is not just the decision of the three panel members. They try to reach their decision with the agreement of the parents, the young people concerned, social workers and anyone else who is involved in the case. The decision is not the responsibility of one person or the three panel members.

There are other things to consider about the way in which panels come to their decisions. Because panels are not courts and do not try people, the

victims do not necessarily appear before panels. In fact, I would be surprised if that happened. The cases are considered in isolation. The panels on which I sat never met a victim.

John Wilson: I support what you said in summing up the debate, convener, but I would like to reiterate a point that other committee members have raised.

In the case that Margaret Curran has highlighted, the victim's parents sought assurances about the action that had been taken but were told that they could not be given that information because it was confidential. If we are to have an open and transparent system, there must be transparency about the outcomes of the children's hearings system. Victims and their parents should be able to find out why children's panels reach certain decisions. Not being allowed to know why a decision was made has implications for the victim, which relate to whether they should take further action—a private prosecution or whatever—against the individuals concerned in order to highlight their situation.

There is also an issue about openness and transparency in reaching decisions. I would like that point to be reinforced when we write to the cabinet secretary or whoever on the issue. Also, in drafting the proposed bill that will set up the children's hearings agency, we must ensure that that issue is addressed in the agency's guidelines, so that information is forthcoming and the decision-making process is not closed.

The Convener: Okay. I think that there is broad agreement on that. Do you want to add any final points, Margaret?

Margaret Curran: I will be brief. It is important that I clarify that the family and I were told that they could not be given information because the perpetrators were already subject to supervision orders. However, the point remains valid. The family could not be told the reasons behind the decision, and nor could I. I asked to be told privately, but that was not permitted. We could not be told whether the existing supervision orders would be increased or otherwise influenced. We had no indication at all of what effect the crime would have on the activities—I would not use the word punishment—that were to be undertaken or even any knowledge of what interventions were being made. They were deemed to be social work interventions and therefore private and confidential.

17:00

It was a thorny issue for me, which is why, ultimately, we came to the committee—we could not grapple with the situation at all. The reality on the streets is that Martin, the young man in

question, is in his room every night and the young lads who did this to him are out on the streets showing great bravado. The consequences for the community and for the credibility of the children's panel are significant. It would be fair to say that Mrs Cooper has lost confidence in the children's panel, and in any intervention in this serious case. Perhaps that would not be the case in a less serious situation.

Mrs Cooper will appreciate the committee's reaction to the petition because you have taken it so seriously. Victim Support Scotland was involved, but it is fair to say that it was not of enormous benefit. If people want to pursue that point, I would be happy to speak to them about it.

If we do not get a reaction from the children's panel or the adult system, we need to come to terms with the fact that there is a gap for which our communities are paying the price.

The Convener: There is broad agreement among committee members on how to pursue the matter. I thank Margaret Curran for her contribution on behalf of the family, who have come today. I know that they were not able to speak to the committee directly, but I hope that their MSP has articulated their concerns.

War Veterans (Health Care) (PE1159)

The Convener: PE1159, by Mrs S Kozak, calls on the Scottish Parliament to urge the Scottish Government to provide veterans of the 1991 gulf war with all necessary information and facilities in order that veterans exposed to nerve agents and their preventative medications are assessed, advised and treated appropriately and fatalities are prevented.

When we had the petition in front of us before, we expressed concern about some of the issues raised in it and said that we wanted to try to resolve them for the petitioner. I am happy to take views from members on how to tackle the situation.

Robin Harper: In view of recent publicity and discussion of the issue in the media, we should write to the Scottish Government to seek a response to several specific points. We could ask it whether it will create a dedicated section on the NHS Scotland website that will contain all relevant guidelines and publications relating to the treatment of armed forces veterans—in other words, advice for health professionals on gulf health, information on accessing services and a list of those hospitals and doctors with experience of or expertise in treating gulf war associated illnesses. Making such information available would be a good start.

I have been in conversation with people whom I know in the military who have returned from the gulf and Afghanistan. Many of them are of the view that we could do with another dedicated hospital or institution that relates generally and openly with the public—in other words, not somewhere private but an institution centred in Edinburgh or Glasgow where people can go to get the specialised and specific assistance that they need. Others might like to mention a few other things.

Bill Butler: We should also ask the Government whether it supports the creation of a gulf war veterans card. The information that it could contain is proposed by the petitioner. It would be useful to ask about that.

Nanette Milne: It is interesting that there is not enough knowledge among practising professionals in the NHS. Perhaps information and advice could be disseminated by some of the colleges, such as the Royal College of General Practitioners, the Royal College of Surgeons of Edinburgh and the Royal College of Anaesthetists.

The Convener: If we can pull together that level of research and detail, it might be useful to have some sort of web access point as well, as Robin Harper suggested. In that way, people will have an opportunity to engage wherever they live in Scotland. They will not have to come to the capital city or another large city.

We will keep the petition open and pursue the issues with the Government and the agencies that are responsible.

Befriending Services (PE1167)

The Convener: PE1167, by Christine McNally on behalf of Clydesdale Befriending Group, is on support and positive impacts for individuals relating to befriending services, and also the issue of support for people with learning disabilities through the “The same as you?” strategy. When we considered the petition before, we heard directly from the petitioners.

Are there other issues that we still wish to pursue?

Bill Butler: We should pursue a number of issues with the Scottish Government. We should ask it, rather than reiterating councils’ responsibilities under the historic concordat, to state what its specific plans are to promote and fund befriending services as part of “The same as you?” and other strategies for people with learning disabilities. We should also ask the Government what constructive comments it has on the petitioners’ submission, and particularly their conclusions. In what way would the Scottish Government say that the funding of befriending

services in Scotland is stable, long term and not precarious?

Nanette Milne: I wonder whether it would be worth while to get in touch with COSLA. It is clear that the matter is not uppermost in councils’ minds as far as the single outcome agreements are concerned. Is there a particular reason for that? Can councils be leaned on to consider the matter?

The Convener: If members are happy with those observations, we will try to pursue the petition in relation to the opportunities for funding services for individuals with learning disabilities.

Magazines and Newspapers (Display of Sexually Graphic Material) (PE1169)

The Convener: PE1169, by Margaret Forbes, has been in front of the committee before. The petition, which was lodged on behalf of Scottish Women Against Pornography, calls on the Scottish Parliament to urge the Scottish Government to introduce and enforce measures that ensure that magazines and newspapers with sexually graphic covers are not displayed at children’s eye level, or below or adjacent to children’s titles and comics, and that they are screen-sleeved before being placed on the shelf.

We have had a response on some of the issues, but I think that there are issues that members still wish to pursue.

Marlyn Glen: It is a pity that the petition is so far down our agenda—I am beginning to flag.

The petition raises an important issue, particularly as there is so little research on the area. To begin with, we should write to the Scottish Government and ask it to meet Scotland’s Commissioner for Children and Young People to discuss the concerns that she expressed in her letter. I would like to find out what factual and statistical evidence the Government has that the voluntary code has been adhered to. Also, what is the experience of customers? We should ask the Scottish Government to initiate research on the matter. We have discussed the topic in the Equal Opportunities Committee, and there is a dearth of research. The concern can too easily be dismissed as one or two people complaining. In fact, the problem seems to be growing.

The Convener: Gil Paterson has expressed an interest in the petition. I invite him to comment.

Gil Paterson: May I make a general comment first? I thank the committee for the way in which it handles all these petitions; I am impressed by the attention to detail and the work that you put into them. I have come in towards the end of your meeting, but you are still up there, punching heavily. I am grateful.

The Convener: We are serving the people of Scotland.

Gil Paterson: I am quite serious about my comments. Coming from another committee, it is gratifying for me to see the work that you are doing. The public should feel comfortable about the way in which you handle the issues.

The Convener: Enough of the flattery. On you go.

Gil Paterson: It is not flattery, I assure you.

Marilyn Livingstone's suggestion to engage with the Government and the commissioner is a good one. There is only one way to overcome the problem. People who work with victims of rape and sexual exploitation describe a constant lowering of the threshold. Things that should not happen, particularly when it comes to children, are being normalised.

The only answer—which is a simple one—is to put an opaque cover over the magazines. Most of the magazines already have a cover, but you can see through it. I do not understand why the cover is not opaque—the magazines would be out of sight and out of mind for children. With the normalisation process that is going on, and the lowering of thresholds, we are on a dangerous road. I ask the committee to keep the petition open, and I support Marilyn Livingstone's suggestion.

The Convener: We have broad agreement in the committee about the next stage for the petition, which is to explore how to resolve those issues, and to enter into further discussion with those who can make the relevant decisions. We will keep the petition open and we will take forward the issues that have been identified by members. I thank Gil Paterson for his contribution.

Ferry Services (Road Equivalent Tariff) (PE1203)

The Convener: The next petition is from Joan Richardson and calls on the Scottish Parliament to urge the Scottish Government to commence a review of ferry services, to develop a long-term strategy for lifeline services to 2025, and to provide an immediate minimum discount of 40 per cent on ferry fares. We have considered the petition recently. Do members have any comments on how we should proceed?

Nanette Milne: I think that we can close the petition. The Government is reviewing lifeline ferry services and the issues that are raised in the petition are being dealt with.

The Convener: The big sigh of relief you heard was from the clerk, because we have finally closed a petition. He does not want to go shamefacedly

back to the office and say, "None closed today, boys and girls."

Sheriffhall Roundabout (PE1218)

The Convener: PE1218, from Margot Russell, calls on the Scottish Parliament to urge the Scottish Government to bring forward a timed and costed programme of works for the grade separation of the Sheriffhall roundabout on the A720 to alleviate pressure and traffic problems on the new A68 Dalkeith bypass.

The petition has been in front of us before. Do members have any observations?

Robin Harper: I think that we should close the petition on the ground that grade separation for the roundabout at Sheriffhall is part of the improvement to the A720 referred to in project 22 of the strategic transport projects review. It will be pursued as the delivery of the STPR moves forward, subject to other priorities and funding.

The Convener: We will close the petition. In the words of our national rugby team coach,

"A roll always starts with one".

We have got two in a row, so well done.

Athletes (Rural Areas) (PE1219)

The Convener: PE1219, by Christina Raeburn, calls on the Parliament to urge the Government to ensure that adequate funding is available to allow talented young athletes in rural areas—to be broadened it out beyond rural areas—to travel to competitions at regional and national level, and to provide coaching support and training facilities across Scotland so that no talented young athlete in a rural area is disadvantaged as a result of their location.

Issues still arise from the petition. As part of its pathways into sport inquiry, the Health and Sport Committee is considering areas relevant to the petition.

John Wilson: I suggest that we refer the petition to the Health and Sport Committee. If it is considering pathways into sport, it might be the best committee to consider the petition.

The Convener: The evidence may already have been gathered. We should certainly draw the petition to the attention of the Health and Sport Committee. I will take members' views on whether we should keep it open at our end.

Nigel Don: The letters that we got from various local authorities referred to the sums involved, which I think are probably significant for council budgets—for example, it was £25,000 for Aberdeen City Council and £38,000 for Aberdeenshire Council. Those amounts do not go

an awful lot of miles, but they plainly go some distance to help some folk. I am not, of course, the only one here from the Aberdeen area, but I also note the development of a 50m swimming pool in Aberdeen, which will remove the necessity for people to travel to find a full-size pool, and the north-east regional sports facilities. We should therefore note that some things are being done, certainly in the Aberdeenshire area. I note that Highland Council's response was not so positive. I guess we should ask the Government whether it is satisfied that enough is being done and whether it has a view about how much more could and should be done.

17:15

The Convener: I acknowledge what John Wilson said, but Nigel Don's suggestion is probably the best approach to take on the petition. That is partly because the evidence-gathering sessions on the pathways into sport inquiry have concluded and partly because, as the committee clerk has indicated to me, we previously chose not to refer the petition to the Health and Sport Committee, so it would be inconsistent to do otherwise now. Nigel Don's suggestion is helpful, but are there any other suggestions?

Nanette Milne: I agree with Nigel Don's suggestion, but do we know the size of the problem? Do we know how many talented athletes apply for coaching, better facilities or whatever? It strikes me that many do so around the country. I wonder whether Scottish Athletics could give us an idea of the scale of the issue. I suspect that it is significant.

The Convener: We do not know the size of the problem, but I think that there is a lot of untapped potential because of insufficient resources at different levels to support individuals. It is about breaking down barriers around who can allocate resources. It is also about whether there are enough resources in the system to begin with—that is a big challenge.

One of the big issues facing us all, including Glasgow City Council and the Government, is the debate on the legacy of the Commonwealth games. In many of the legacy consultations, people are asking, "If I have a talented young son or daughter, how can I get support to them at the time in their life when it really matters?" That is particularly the case for individuals from low-income families or families who do not have the resources to travel easily round the country.

We should keep the petition open and identify some of those issues to try to get broader responses.

General Practitioner Dispensing Practices (PE1220)

The Convener: PE1220, by Alan Kennedy, calls on the Scottish Parliament to urge the Scottish Government to review all relevant legislation to ensure the continuance of general practitioner dispensing practices in instances where commercial pharmaceutical practices apply to operate in the same local area. Again, the petition has been in front of us before. Do members have any comments?

Nanette Milne: The petitioners make a fair point about the lack of consultation when there is an application for a community pharmacy. As we have been talking today about patient involvement and openness in the NHS, it makes sense to me that existing dispensing GPs and patients should be consulted on such an application. If, unlike me, the Government is happy for such consultations not to take place, I would like to know why.

The Convener: Are we broadly in agreement that we wish to raise the matter directly with the Government again?

Bill Butler: I do not disagree with that. However, I have a little knowledge about the matter and I was under the impression—maybe it is a misapprehension—that dispensing GPs can make direct representations to various committees. However, is that only in certain areas? I do not know.

Nanette Milne: I do not know, but that is not what is said in the petition.

Bill Butler: I know.

Nanette Milne: I would like that clarified.

Bill Butler: Absolutely.

The Convener: So we wish to keep the petition open and get further information.

Members indicated agreement.

BBC Alba (PE1222)

The Convener: The final petition is PE1222, by John Macleod, which calls on the Scottish Parliament to urge the Scottish Government, given its responsibilities to promote and support Gaelic culture, to make representations to the BBC trust to ensure that BBC Alba is made available on Freeview now, rather than wait for a planned review in 2010.

The First Minister has raised this matter directly with the chair of the BBC trust, Sir Michael Lyons. As always, I would trust his judgment and expertise on these matters.

Bill Butler: Sir Michael Lyons's?

The Convener: Obviously. You took away my punch line.

Given that the matter has been raised at the highest level, I think that we have taken the petition as far as we can. I hope that a satisfactory solution can be found. We will close the petition.

New Petitions (Notification)

17:20

The Convener: Item 5 is notification of new petitions that have been lodged since our previous meeting. They are now available to us.

Meeting closed at 17:20.

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