

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 12 January 2010

Session 3

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# **PUBLIC PETITIONS COMMITTEE**

## **1<sup>st</sup> Meeting 2010, Session 3**

### **CONVENER**

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

### **DEPUTY CONVENER**

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

### **COMMITTEE MEMBERS**

\*Rhona Brankin (Midlothian) (Lab)

\*Bill Butler (Glasgow Anniesland) (Lab)

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

\*Robin Harper (Lothians) (Green)

\*Anne McLaughlin (Glasgow) (SNP)

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

\*John Wilson (Central Scotland) (SNP)

### **COMMITTEE SUBSTITUTES**

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Nicol Stephen (Aberdeen South) (LD)

Bill Wilson (West of Scotland) (SNP)

\*attended

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

Roseanna Cunningham (Minister for Environment)

Hugh Dignon (Scottish Government Rural Directorate)

Kenneth Gibson (Cunninghame North) (SNP)

Jamie Hume (Scottish Government Business, Enterprise and Energy Directorate)

Robert Maund (Scottish Campaign for National Parks)

Des McNulty (Clydebank and Milngavie) (Lab)

Margaret Mitchell (Central Scotland) (Con)

Graeme Purves (Scottish Government Directorate for the Built Environment)

Graham Ross (Scottish Parliament Research, Information and Reporting Group)

Sybil Simpson (Save Your Regional Park Campaign)

Nigel Willis (Save Your Regional Park Campaign)

### **CLERK TO THE COMMITTEE**

Fergus Cochrane

### **ASSISTANT CLERKS**

Franck David

Alison Wilson

### **LOCATION**

Committee Room 1

# Scottish Parliament

## Public Petitions Committee

*Tuesday 12 January 2010*

[THE CONVENER *opened the meeting at 14:01*]

### Current Petitions

#### Nature Conservation (Scotland) Act 2004 (Snares) (PE1124)

**The Convener (Mr Frank McAveety):** Good afternoon, everyone, and a good new year. Welcome to the first meeting in 2010 of the Public Petitions Committee. We have not received any direct apologies from members who are unable to attend this afternoon's meeting. I remind everyone in the room that all mobile phones and other electronic devices should be switched off in case they interfere with the broadcasting system.

Item 1 is consideration of current petitions. For our first current petition I welcome Roseanna Cunningham MSP, the Minister for Environment. Here with Roseanna are John Gray and Hugh Dignon of the species management team—a very grand title. This is the minister's first opportunity to appear before this committee, so I welcome her. A number of ministers have appeared before the committee in the past and the discussions that we have had with them have always been constructive.

**The Minister for Environment (Roseanna Cunningham):** Did they all get out alive?

**The Convener:** Absolutely. None was snared. Do not worry—we are much more humane than that. If the minister wants to make any opening remarks, we are happy to hear them; otherwise, we will go straight to questions. We have had PE1124 before us a number of times and we know that there has been a broader debate on the issue in the chamber. Members have a series of questions. We have had information from the minister and the rural directorate about a review of the snaring policy. What is that review based on and how do you gather the numbers of target or non-target species that are caught?

**Roseanna Cunningham:** We are not conducting a formal review of snaring, although we do a constant monitoring exercise. We discuss snaring on a regular basis in a variety of ways. Obviously, there are discussions on snaring in relation to the wildlife and natural environment bill that is coming. We are laying orders soon, on 20 January. The partnership against wildlife crime Scotland has a sub-committee that is heavily

involved in issues that relate to snaring. Issues around snaring are kept under such review almost constantly. I do not see that ever changing.

Our approach has been to seek improvements in snaring standards. I know that some members of the committee might wish the approach to be changed. Because we are looking at it from the point of view of making constant improvements in standards, we do constant monitoring.

As I can see from the various pieces of correspondence, there has been some to-ing and fro-ing about the statistical evidence on a number of aspects of snaring. Because snaring is a legitimate legal activity, we are not carrying out a specific monitoring of returns—which some members might wish to happen. We are trying to improve standards, but we are not constantly monitoring returns, which I think has been expected—or it has been thought that that might be happening. That, I suspect, has created some of the confusion that has emerged in the to-ing and fro-ing of correspondence.

Some forms of snaring are illegal, and they can be picked up through criminal law and prosecutions, as is the case with a number of wildlife crimes. It is not always easy to get sufficient evidence, so cases do not always proceed to prosecution. Through the partnership against wildlife crime, we monitor all wildlife crime, not just crimes in connection with illegal snaring, as the same issues tend to arise.

**The Convener:** You mention progress. What examples of progress do you have in relation to snaring?

**Roseanna Cunningham:** We are in constant dialogue with the countryside managers who are most involved in snaring. A number of practices that are illegal in Scotland are still legal in other parts of Europe. We have made real changes in that respect. There are further real changes coming up, with the orders that we will lay on 20 January and the proposals that are likely to be contained in the wildlife and natural environment bill that will be introduced in the spring. It is a case of constant monitoring and dialogue.

Committee members might be interested in a project at Langholm moor, in the south-west. That joint demonstration project, which involves Buccleuch Estates, RSPB Scotland, Scottish Natural Heritage and other organisations, is examining different methods of snaring and ways to integrate snaring and wildlife management, particularly in connection with birds of prey. The people who are running the project would be only too happy if any members of the Parliament wished to arrange a visit to Langholm moor, and would afford every opportunity for that. Such projects are done on a regular basis.

**Rhona Brankin (Midlothian) (Lab):** You will be aware that the previous Administration in 2006-07 carried out a consultation on the future of snaring, which produced responses in a ratio of 2:1 in favour of an outright ban on snares. Independent opinion polling shows public support in favour of an outright ban at between 75 and 79 per cent. Furthermore, 75 per cent of vets support a ban on snaring. Is the Scottish Government not prepared to accept the will of the Scottish public, and to actually listen to them and do what they want?

After nearly two years we still do not even have regulations. What will be in the forthcoming statutory instruments? How will they reduce the high toll on non-target species such as badgers, otters, deer, livestock, domestic pets and the Scottish wildcat, which get caught in these indiscriminate traps?

**Roseanna Cunningham:** With respect, some of that presentation of the situation was an exaggeration of what is actually happening. I fully accept the point on the response to the consultation, but the Administration has in, looking at things in balance, taken the view that snaring remains essential for countryside management. Economically, countryside management is extraordinarily important in Scotland, not just for income generation but for employment, so we need to consider that.

Given the management that farmers and game managers require to undertake to protect livestock, crops and wild game, the view of those who manage the country—and, indeed, the view of this Government—is that some snaring must be allowed to continue. All the controls that we are beginning to put in place should ensure that the conduct of that snaring is at as high a standard as possible, but nothing will ever be ideal. We will never be in a position in which we will not need to manage the countryside. Everyone expects and understands that there are times when some animals need to be killed—few of us take the view that that need never happen—so the question is on the best way to manage it. In effect, we have considered snaring as one of the least bad options. Shooting is not always practical or safe and it is not always the right thing to do. If we were to say that no animal must ever be killed in the country, we would have a big problem with management.

We have decided to go down the road of regulation and order-making powers. I was asked specifically about what is in the orders, but I am not sure whether the convener wants me to move on to that now or to deal just with the more general points at this stage. I have information on what is in the orders, obviously.

**Rhona Brankin:** It might be interesting to find out what the key provisions are. However, in

response to the minister's comments, let me just say that we know that major landowners and land managers such as RSPB, the Forestry Commission, Scottish Natural Heritage, the John Muir Trust, the Scottish Wildlife Trust and all 32 local authorities manage land without the use of snaring. Therefore, in my view, the minister's claim that snaring is a necessary part of land management is simply untenable.

**Roseanna Cunningham:** The activity that takes place on many of those estates is not the same as that which takes place on farming and shooting estates. The truth is that the farming and shooting estates are where a lot of the economic activity in the countryside happens. I remind members of what I said about the Langholm project, in which the RSPB is actively working with other organisations to produce concrete and positive outcomes. It is not fair to say that one set of organisations has completely turned away from snaring and another set of organisations is completely turned on to it. The issue is about management.

Different proposals are likely to be introduced in the bill, compared with the orders. The original intention was that the bill would introduce two measures: the creation of an accreditation system for those who wish to set snares—that will also include a requirement to use identity tags to identify who has set a snare—and the creation of a new offence of tampering with legally set snares. The ID tag provisions will be included in the primary legislation. That will allow us to police what is happening far more effectively. The ID tags will state the intended target species, so they will also provide a mechanism for better information gathering. The bill will require users of snares to undertake a qualification course and to produce a valid training certificate when requested to do so. It will be an offence to set a snare without having completed such a training course.

However, we have been given legal advice that we should not proceed with the original proposal to create a new offence of tampering with a snare because two existing criminal offences cover precisely the same activity. Therefore, that proposal will be dropped. Let me just check where we are with the orders.

14:15

The order that will be laid on 20 January will introduce proposals for fitting effective stops on snares to prevent the noose from closing too far, which is one of the issues that have been raised with us. Other measures include the checking of snares every 24 hours, a prohibition on the setting of snares near features that could cause unnecessary suffering—which will be dealt with as part of the training—and the ID tag, which I have

already mentioned. Some measures will be introduced by the order that will be laid on 20 January, whereas others are being held back for the bill. One measure that we had expected to include in the order has been held back on legal advice and will be included in the bill instead. It was considered that primary legislation rather than regulation would be needed to bring it in.

**Bill Butler (Glasgow Anniesland) (Lab):** Good afternoon, minister. In response to one of the convener's questions, you mentioned that the Government is not conducting a formal review. Why has there been some confusion about that? The committee was under the clear impression that a review was under way.

**Roseanna Cunningham:** I am not clear why there was such confusion, unless it was simply to do with different uses of the word "review". As I said, there is a constant review process as part of our work on drafting the orders, looking at the bill and so on. The confusion may just have been between a formal review and the constant process of informal review. I am sorry, but I am not sure how it arose.

**Bill Butler:** Thank you for that possible explanation.

I have a few specific questions. Does the Government have any information on the numbers of animals that were trapped in legal snares and in illegal snares over the past 12 months?

**Roseanna Cunningham:** We have some information, but it is not specific to the past 12 months.

**Bill Butler:** To what period does it relate?

**Roseanna Cunningham:** We have figures that the national wildlife crime unit has provided, which show that 47 incidents involving snaring were reported in Scotland between April 2007 and October 2009. That period is longer than 12 months.

**Bill Butler:** From whom did you say those figures had come?

**Roseanna Cunningham:** They came from the national wildlife crime unit.

I can give a breakdown. Of those 47 cases, 18 involved illegally set snares and six involved snares that had been set legally. The national wildlife crime unit was unable to identify whether the remaining 23 incidents involved illegal or legal snares as the information that had been provided did not allow an assessment to be made about legality.

**Bill Butler:** So the ratio of cases involving illegal snares to those involving legal snares is about 3:1. In how many cases did the snare catch an animal that it was designed to catch?

**Roseanna Cunningham:** I have no information on that from the figures from the national wildlife crime unit. Such information will not have been available. Hugh Dignon might have further information.

**Hugh Dignon (Scottish Government Rural Directorate):** There is no systematic information available on the number of non-target species that are caught in snares, although a number of research projects have been carried out over the years, in which the percentage has varied. In some surveys, it has been as high as 50 or 60 per cent, but other surveys reflect a concentration on improving the fieldcraft of the person who was responsible for setting the snares.

**Bill Butler:** Should a more systematic approach be adopted if we are to have pertinent information on the basis of which Governments can decide the correct policies to follow? The information that is available seems to be extremely vague and hazy.

**Roseanna Cunningham:** At the moment, suspicious incidents are reported—those are the figures that we get from the national wildlife crime unit. It can decide whether those incidents involve snares that are legal or illegal, but in some cases it cannot make an assessment.

Because snaring is, essentially, a legal activity, detailed information has not been gathered over the years. Detailed returns such as Bill Butler is talking about have not been gathered. There is a culture of gathering information, which goes back to the 19<sup>th</sup> century and what were called vermin books. Keepers would report to their bosses about what had been caught in any given period. What no Government has ever done is to turn that into a legal requirement to report to the police or to a Government body. In theory, it would be possible to do that, although the burden would be extremely heavy if we were to go down that road.

The alternative would be to conduct on a number of farms and estates a research survey on information gathering. Such surveys cost tens of thousands of pounds, so we would need to consider whether that was appropriate. The difficulty is that we are starting with an activity that is, in effect, legal, so our approach is to professionalise that activity. ID tagging, together with the professionalisation, will go quite a long way towards raising standards. The worst examples of snaring tend to be part and parcel of activity that is already illegal, such as poaching. That is a bigger wildlife crime issue.

**Bill Butler:** You mentioned that orders are to be laid on 20 January.

**Roseanna Cunningham:** That is the current plan.

**Bill Butler:** I accept that that is the current plan, because you have just said it. Whenever the orders are laid, will they prevent instances such as are mentioned in a document that the committee has received from the petitioners—you may have seen it—in which apparently legal snares are likely to operate illegally in circumstances beyond the operator's control, for example when the trapped animal struggles, making the wire kinked and twisted? Can any order ever prevent that?

**Roseanna Cunningham:** I do not know whether we will ever have a perfect scenario. Our view is that snaring is one of the least bad options. I do not want to sit here and say to the committee that a non-target animal will never be caught in a snare or that there will never be difficulties. What we are trying to do is to tackle the difficulties and remove them from the process. We have not seen the papers to which you are referring, so I do not want to talk about the specifics of such incidents.

**Bill Butler:** If you will take it from me, minister, it is one of the concerns raised by the petitioners.

**Roseanna Cunningham:** I understand. The concerns exist even among a wide group of countryside managers. People are trying to establish a position in which the snares do the precise job that they are required to do, and no more. We are not at that perfect state yet, and we are trying to introduce various measures that will allow us increasingly to rely on the accuracy of the snares in terms of the animals caught, and the ability of the snare to release non-target animals or not to hold them in such a way that they will be in danger.

We continue to address the kinds of snare, ID tagging and the requirement for a professional qualification. All those measures attempt to tackle concerns and issues that people raise—legitimately—about a major animal welfare issue.

**The Convener:** Members want to ask about several issues. Does anybody still want to ask about the current subject? Is John Wilson's question about a different matter?

**John Wilson (Central Scotland) (SNP):** My question is about the recent responses.

**The Convener:** We will keep to that at the moment.

**John Wilson:** You have referred a couple of times to the training and qualifications that individuals who set snares will need. What discussions have taken place with countryside managers and conservation organisations about the costs of introducing such qualifications for operators of snares?

**Roseanna Cunningham:** The cost has not been paramount in our minds. Our view is that the qualitative necessity overrides any cost issue. I am

not conscious of representations from organisations that are concerned about the costs—[*Interruption*]*—*but I am obviously about to be given some information. The lack of representations might be because the cost is only £40 per person. The concern has not been raised directly with ministers and neither of my officials indicates that it has been a big issue that organisations have raised.

**John Wilson:** Thank you for your response and for giving the cost that is expected to be associated with the measures. The sum of £40 does not seem huge for the training and qualifications for setting snares. The aim is just to have the accuracy of that figure.

You mentioned the records that gamekeepers in particular used to keep about the snares that they set, the target animals and the animals that those snares caught. If we are to have a qualification for setting snares, we should build on that to ensure that snare operators detail the species that are being targeted. Without causing undue distress to snare operators, we should encourage them to be honest about the species that snares catch unintentionally, so that we have an accurate figure about how successful and useful setting snares is for countryside management.

We have heard a couple of times that setting snares is one of the best ways of controlling some species, but I am concerned about how, if we continue to set snares but not to collect accurate information and figures about their unintended consequences, we will monitor the effectiveness of setting snares and stop the continued snaring of species that have been reintroduced into Scotland.

**Roseanna Cunningham:** That question is fair. The ID tags will be tied to target species—that is one initiative that will help. We need to remember that, if we went for detailed and constant monitoring, that would have a cost, too. People would have to record the information when they were out on the hills for eight, nine, 10, 11 or 12 hours in all weathers, because of the work that they do. Such monitoring raises practical issues.

If we chose to, we could spend money on a research project. Much record keeping will still be done relatively informally. The vermin books that I spoke about were not formal—they were estate books and were part of estate management. Much of that record keeping still goes on. Monitoring and control are constant, because if the number of foxes or whatever increases suddenly and is a problem that must be managed, management will want to be aware of that. If the number of foxes that are caught in snares suddenly rises, management will want to know what is going on. Part and parcel of management is keeping such monitoring going.



14:30

From the estate manager's point of view, it is of no great use to get non-target animals. They want to achieve real quality by getting target animals, because it is those that are the problem in the management of estates.

The Food and Environment Research Agency in York is doing a research project on snaring. Strictly speaking, it is doing the work for the Department for Environment, Food and Rural Affairs, but we, too, await the outcome. The issues that we are addressing in Scotland are live for the whole United Kingdom. That is part and parcel of keeping the matter at the forefront of our thoughts. We are constantly looking at any research that has been done elsewhere. We are keeping all that constantly in our minds.

**Anne McLaughlin (Glasgow) (SNP):** I was interested to read that all but five of the European member states have banned the use of animal snares. Has the Scottish Government looked at other countries to find out when they banned snaring, why they did it and what the consequences were for effective countryside management? If not, will the Government consider finding out how other countries manage their countryside economies?

**Roseanna Cunningham:** Yes, of course we look at what other examples there are of snaring policy in other countries. However, it is not as easy as you might imagine to get detailed information about what takes place in other countries. For example, there is a belief that France has far stricter snare rules than we have, but that is not the case. When we look closely at what it does, although it designates community trappers—individuals who are responsible to the local mayor or notary for the trapping—it still allows the kinds of traps and snares that are illegal in this country.

At one level, France does things slightly differently, with the community trapper, but at another level they use snares that we do not allow because we believe that they are inappropriate from an animal welfare point of view. That shows why it is sometimes difficult to look at the headline figure from a country and say, "Okay—they have done that. We can now do it as well." When we look behind the figures and the headlines, the position does not always turn out to be quite what the public relations say it is.

We have found it difficult to get the detailed information that we require to make a fair cross-border assessment. Even within the UK, there are variations, and tracking down the differences is not always as easy as you might think. I guess that I am just issuing a word of caution about assuming that, because there is a headline that says, "We have done this" or, "We have a stricter set of that",

we can accept it. It might turn out not to be accurate; the reality might not justify the headline in the way that you might imagine.

**Anne McLaughlin:** Countries such as Ireland, France and Spain and, of course, the whole of the United Kingdom still have animal snaring, but I understand that other European member states have banned it. It would be interesting to look at the difference and find out what the reaction to the ban was at the time, and what the reaction is some years on, from people who work in the countryside.

**Roseanna Cunningham:** That would be reasonable if we could assess that kind of thing easily, but we cannot. The other thing that you need to keep in mind is that the nature of our countryside economy might not be the same as that of other countries. We would have to look at that as well. The impact of a ban will depend entirely on the nature of the countryside economy in any one country. To be facetious about it, if Luxembourg bans snaring, a comparison with it will be of no use from our perspective. When you compare what happens in one country with what happens in another, it is not only the policy on snaring that you have to compare but the potential impact on those countries' rural economies, how each country's rural economy is made up and where the money, jobs and so on come from. If you do that, you will find that there will be great differences in the impact on certain countries.

**Anne McLaughlin:** I understand what you are saying, but it would be interesting to see whether there was a body of work that compared like with like, in so far as that is possible. It would be good to know what the impact has been on countries that have completely banned snaring. Such research might back up the petitioner's argument, or it might back up the Government's argument.

**Roseanna Cunningham:** There is no cross-border European study of that nature. I am not sure how easily we could set one up. We could try to perform an informal study but, for the reasons that I have outlined, that has not proven to be easy to do.

**Robin Harper (Lothians) (Green):** I cannot help but venture the opinion that all of the facts and figures on Europe's rural economies are readily available to anyone who cares to ask for a summary of them from the countries concerned.

I want to ask about the monitoring that the minister mentioned earlier. An essential part of that is performed by wildlife crime officers. Is the minister aware of the pressures that are exerted on those officers in many communities? Is the Government considering offering them extra support? Will there be any comfort for them in the forthcoming legislation?

**Roseanna Cunningham:** We are proactively pursuing work on the issue of wildlife crime. Obviously, it is a bigger issue, of which illegal snaring is a part. I have already had discussions with the Cabinet Secretary for Justice because the prosecution of wildlife crime is part of the normal Crown Office and Procurator Fiscal Service set-up. We have concerns about how seriously wildlife crime is taken. One of those concerns involves the differences between police forces. Some forces are good at clearly designating wildlife crime officers, while others are not. We are actively trying to tackle that in various ways, including through our work with the partnership for action against wildlife crime. I will meet the Solicitor General tomorrow to discuss that subject.

Obviously, all police forces try to investigate reported crime and prevent crime, but there is a range of priorities for their limited resources. Nonetheless, some police forces manage to deal with the issue that we are discussing better than others do. Many of us will have spoken to Alan Stewart, who has been a wildlife crime officer with Tayside Police for a long time—in some parts of Scotland, there is a history of proactivity, although in other parts there is not.

The designation of wildlife crime officers is a matter for the chief constable within any given police area. If there are police authorities that are not proactively designating wildlife crime officers, I invite MSPs to lobby appropriately. That would help us enormously.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** You make a strong case for the retention of snaring, which I find surprising. I cannot possibly agree with many of your statements. I was also quite amused when you said that the snare could be adapted or set for a particular target species—that you could identify the snare with the species that you were trying to catch.

**Roseanna Cunningham:** The ID tag on the snare would indicate the target species.

**Hugh Dignon:** It is to do with the stop. We are specifying that the snare must have a stop on it to prevent the noose from closing too tightly. That stop will be set at different diameters for fox and rabbit snares. It will say whether the snare is set for foxes or rabbits—

**Roseanna Cunningham:** And the tag will indicate that.

**John Farquhar Munro:** I understand that, but you must appreciate that the predator or wild animal that is roaming about in the forest does not read and cannot identify whether the snare is for him. I cannot see that what you describe will benefit wildlife at all. There will be nothing on the snare to prevent its snaring a domestic animal or a

non-target species—it is not always the targeted predator that goes in the snare. You are suggesting that the answer to the problem is for the snare to have an identity tag on it. Yes, there should be an identity tag to identify whoever has set the snare, but to suggest that a snare can be identified for a particular species is quite—

**Roseanna Cunningham:** The snare can be set to stop at the appropriate point for an identified species. To be fair, I did not say that we would achieve a perfect world on this—I do not think that that is possible and I doubt whether it would ever be possible.

**John Farquhar Munro:** I am not suggesting that we should even attempt to get a perfect system. I have met many keepers and have spoken to them at length about snaring. Some of them are quite supportive of snaring; others would sooner not have anything to do with it. So, you have a mixed bag there. However, no matter which snare is set, you cannot guarantee that it will catch only the target species.

I have several questions, which I should perhaps lump together. Can you guarantee that only targeted predators will be caught in snares? I do not think that you can.

**Roseanna Cunningham:** No, and I have not pretended that we can guarantee that. We are trying to make it possible to release non-target species unharmed—that is the point. The point of the stop is to ensure that, if a non-target species is caught by the snare, it will not be harmed by the snare and it will be possible to release it.

**John Farquhar Munro:** But any animal—targeted or otherwise—that is in a snare for any length of time will be traumatised and cannot be released unharmed. It will certainly be harmed if it goes in the snare.

Why can a snare not be regarded as cruel? It causes suffering to the caught animal and a long and painful death. Most people would agree that any animal that is caught or restrained in a snare for any length of time will be traumatised. On the basis of the best evidence that is available to us and to you, and in the light of the responses that we have heard, there is no justification for continuing to snare wild animals. Why not just ban snares completely?

**Roseanna Cunningham:** I said at the outset why we do not think that an outright ban is appropriate. I point out that any research that anybody might ask to be carried out would involve the use of snares. For example, scientists on research projects have to use snares to capture animals, which obviously will not be dead. Snaring has uses beyond vermin control, but the basic point is that the control of these target animals is a fundamental aspect of rural management.

14:45

**John Farquhar Munro:** There are means of controlling such animals without using snares.

**Roseanna Cunningham:** Well, there is shooting, which is as likely to throw up the same kinds of problems that we have with snaring. Unless you can guarantee—and no one can—that anyone on the hills who uses a gun for vermin control can be 100 per cent accurate, you are just as likely to have the same longer-term problems.

As I said at the outset, there is no perfect solution to this problem. Vermin control will still have to be carried out even if snaring is banned, because otherwise it will be impossible to manage the rural economy. However, every other method of vermin control comes with its own issues and is just as likely to raise the same kinds of animal welfare issues that we have been discussing in relation to snaring. Sadly, this is not an ideal world.

**John Farquhar Munro:** I quite agree that this is not an ideal world, but I have more confidence in the skill and ability of gamekeepers who use rifles or guns. There will, of course, be the odd incident in which an animal is wounded, but I am sure that the keepers would continue with its culling before it died from those wounds.

**Roseanna Cunningham:** I am bound to say that I have received no representations from gamekeepers along those lines and I look forward to their presenting those views. I admit that I do not take part in these kinds of country sports, but I find it difficult to see how shooting would work with some of the species that are targeted by snaring. You have high vegetation and small animals—it is not as simple or as straightforward as it might sound when you first say it.

**John Farquhar Munro:** We will just have to agree to differ, minister.

**Roseanna Cunningham:** Indeed.

**Nanette Milne (North East Scotland) (Con):** Given the difficulty of detecting wildlife crime, I assume that, if snaring were to be banned, a group of people would still carry on with what would be an illegal pursuit and animals would still suffer as a result.

**Roseanna Cunningham:** A lot of illegal snaring takes place as part and parcel of a larger illegal enterprise, which includes activities such as poaching and badger baiting. The fact is that, as we still have problems in tackling such crime, illegal snaring will still take place. Banning legal snaring activity will not necessarily do away with much of the illegal snaring that, as I say, is part and parcel of this wider criminal activity, and that raises issues that we have already discussed about the prosecution of wildlife crime.

**John Wilson:** The Parliament has already agreed that snares should be checked once every 24 hours. Given some of the comments that have been made, and rather than having wildlife managers going around the countryside shooting at foxes or other species deemed to be vermin or thought to be damaging the environment, I was wondering, just out of curiosity, whether alternatives such as using nets or cages have been considered.

**Roseanna Cunningham:** Yes.

**John Wilson:** If snaring is seen as inhumane, we need to find other ways. A large proportion of public opinion is opposed to snaring, but there are other methods that we could use, if we ensured that their management was monitored properly.

**Roseanna Cunningham:** There are some. The Langholm project has invited the committee to come and look at what it is doing. Part and parcel of that is the project's investigation of different kinds of trapping. I have been reminded that there is a big difference between urban and rural foxes. Rural foxes are a bit canny and are not likely to enter the kind of cage trap that you are envisaging; you must bear that difficulty in mind. An urban fox is accustomed to the ways of humans; rural foxes are not and are likely to be much less inclined to be caught. I urge members to look at some of the traps that the Langholm project is examining, as well as snares.

**The Convener:** This has been a helpful discussion. There will be different views on the effectiveness or otherwise of snaring and so on, but one key issue on which the Public Petitions Committee has worked over the past few years is the engagement that petitioners can have with the process of discussion, participation and partnership. We have received some positive responses from Government ministers, who have indicated that they will try to work with petitioners, where they can.

Two issues popped up at the end of the discussion. First, if snares are applied, what will be done to ensure that that is done as humanely as possible or managed as effectively as possible, to minimise risks? Has thought been given to involving the petitioners in some of the training processes about which people have expressed concerns, especially in relation to how snares are set or used? Secondly, you referred to an organisation called the partnership for action against welfare crime—

**Roseanna Cunningham:** The partnership for action against wildlife crime.

**The Convener:** The partnership for action against welfare crime could also be interesting—we are not snaring any of those yet, but it is a thought. Is there any chance that the petitioners

could engage in discussion about the membership of the partnership?

**Roseanna Cunningham:** The partnership for action against wildlife crime involves a large number of people—the Scottish Society for the Prevention of Cruelty to Animals and the petitioners are involved. I have also met the petitioners to discuss the wildlife and natural environment bill. It is not the case that there has been no involvement—there has, but there has been no meeting of minds. That is the issue, not lack of involvement.

**The Convener:** You mentioned DEFRA research. What is the timescale for that?

**Roseanna Cunningham:** I do not know the timescale for the York project. We will try to establish that.

**The Convener:** It would be helpful if you could get back to the clerk about that.

**Rhona Brankin:** You talked about moving towards a system of accreditation. Do you agree that it is important that people representing animal welfare organisations are involved in any such system? You also talked about the importance of shooting to the Scottish economy. Can you provide us with figures for the economic importance of wildlife tourism, excluding shooting and stalking, in Scotland?

**Roseanna Cunningham:** I do not have both sets of figures in front of me, but the two are not mutually exclusive. One is not at the expense of the other—both are vitally important to the economy of rural Scotland, and we want both to grow and thrive. I question how many tourists come to Scotland to see foxes and rabbits because they are the principal pests in countryside management.

**Rhona Brankin:** I was not suggesting that people were doing that, minister.

**Roseanna Cunningham:** The answer to the first part of your question is yes, of course.

**The Convener:** We have had a good discussion on some of the issues. There are strongly held views on the issues that the petitioners raise, and the minister needs to address some of them. We will continue the petition and will have a chance to discuss it in subsequent meetings.

I thank the minister for her contribution. We will bring the petition back to the committee to deliberate further on some of the points that it raises.

There is a wee bit of logistical shifting around to do for the next item because it is a round-table discussion, so I leave the committee in the capable hands of the clerks while we do that.

## Wind Farm Developments (PE1095)

15:00

**The Convener:** The next petition is PE1095, from Sybil Simpson, whom I welcome to this afternoon's meeting. She has petitioned the Parliament for a considerable period of time, and we have received a voluminous amount of information and correspondence. I am pleased that we have the chance to have a shared discussion this afternoon.

The petition has been lodged on behalf of the save your regional parks campaign, and it asks the Scottish Parliament to urge the Government to provide greater protection for the national and regional parks of Scotland from industrialisation, including wind farms and their associated quarries, roads, cable trenches and sub-stations.

I welcome Kenneth Gibson MSP to this afternoon's session. He has been a supporter of the petition for a long time. We also have with us Nigel Willis, who is the chair of the save your regional parks campaign, Robert Maund, and, from the Scottish Government, Graeme Purves, assistant chief planner, and Jamie Hume, deputy director of renewable energy.

We therefore have at the table a number of individuals with experience and knowledge on these issues. I know that committee members wish to ask a lot of questions, and I invite Anne McLaughlin to begin.

**Anne McLaughlin:** We know that Kenneth Gibson has proposed a member's bill, and we thought that it might be interesting to kick off by asking him where that stands. My fellow committee members said that I ought to ask you to be brief, Kenneth, but I thought that that was a bit unfair, so you take your time.

**The Convener:** The caveat to that is, "Don't always believe what a politician says."

**Kenneth Gibson (Cunninghame North) (SNP):** Thank you, Ms McLaughlin, for that warm welcome. It is hard to believe that it is almost two years since I last came to the committee to speak on this issue.

The responses to the consultation on the bill proposal came in last year; all members should have a copy of the summary of them. Around 91 responses were received, which represents a very high proportion of the total number—150—of consultation documents that were circulated in hard copy and by e-mail.

The overwhelming response is that there should be protection for Scotland's three regional parks, which take up around 0.5 per cent of Scotland's land area. It is clear that the vast majority of

respondents do not believe that the Scottish Government is providing enough protection. The committee is concerned that there have been evasive responses from the Government during the past two years. Everyone involved wants some decisions to be made on the issue.

One concern is that applications continue to be submitted, certainly with regard to Clyde Muirshiel regional park. There are fears among many local people, including those who are present today, that the regional parks will be chipped away piece by piece. There are no statutory rights attached to regional parks in Scotland, and there is therefore very little protection against industrial development. We should recall the words of the First Minister, who on 23 May 2007 stated:

“There is enormous potential for further wind power development in Scotland, but we must also be mindful that natural beauty in our environment is a scarce resource.”—  
[*Official Report*, 23 May 2007; c 72.]

**The Convener:** Thank you. We will gather some information quickly, as a fair amount of material has been sent to us. I invite the Scottish Government officials to make a brief contribution on the maps that have been provided to committee members. I feel as if I am trying to do geography standard grade—I need some help here.

**Graeme Purves (Scottish Government Directorate for the Built Environment):** We provided the maps as part of a supplementary briefing paper that we prepared just before Christmas. As has been mentioned, the petition has been before the committee for some time. We have now provided six responses to the committee on the petition, and we are anxious not to swamp you with yet more paper.

We have tried to provide a fairly brief further supplementary paper that gives some background on the origins of regional parks and brings the committee up to date with planning policy in relation to regional and national parks. The committee may be aware that we are undergoing a process of transition. We are consolidating the existing body of Scottish planning policy, which was previously contained in around 17 documents, into a single SPP that we expect to publish very shortly. We do not yet have the date for that, but it will be published quite soon. We wanted to provide the committee with a picture of how planning policy is likely to develop.

Our supplementary paper also seeks to bring the committee up to date with wind farm casework, both nationally and particularly in Clyde Muirshiel regional park, which has been one of the main focuses of concern of the petitioners. The first map in the paper presents a Scottish picture of wind farm proposals. They are colour coded. Those proposals that are still in scoping are in purple,

current applications are coloured orange and those that are already installed or approved are shown as red. The map also shows significant environmental designations. We thought that that would provide the committee with a useful context for understanding the range of environmental constraints that require to be taken into account in considering policy on wind farm development and individual wind farm proposals.

The second map focuses on Clyde Muirshiel regional park, which has been a primary focus of concern for the petitioners. There have been a number of applications and proposals for wind farm development within the regional park. The map shows the boundary of the regional park in purple and it illustrates that a substantial part of the northern area of the park—shaded in green—is covered by a European designation. It is a special protection area, which has been designated to protect important wild bird habitat. A significant part of the northern area of the park is also protected by the Glasgow city green belt, and that is shown as the hatched area.

The map illustrates a range of proposed and approved wind farm developments within the park. Three have already been approved: at Ardrossan, which is at the southern edge of the park, at Wardlaw wood and at the Kelburn estate. There are further live proposals at Kaim Hill, Wings Law and Waterhead Moor further north. I hope that that provides a helpful summary of what the map is attempting to illustrate.

**The Convener:** Thanks for that. It might be harder for those in the public gallery to judge, but members have the map in front of them and that summary has given us a clearer sense of what we are dealing with.

I now invite Sybil Simpson to contribute on some of the issues of concern. We have already had the petition in front of us on a number of occasions, so I ask you to focus on the current situation, given the most recent developments elsewhere in Scotland.

**Sybil Simpson (Save Your Regional Park Campaign):** It is important to reiterate that we are strong supporters of renewable energy. We are certainly not an anti-wind farm group. We are strong advocates of putting wind farms in appropriate sites. This is not a party-political issue, but it should be viewed by Government as a national issue. There are national parks, but regional parks contribute to national targets and policy, too, on the health front and so on.

We represent thousands of supporters as well as 13 community councils whose areas surround Clyde Muirshiel regional park. We do not wish to give the committee the wrong message—it seems as if we are focused only on Clyde Muirshiel, but

we are not; we are equally passionate about all the parks of Scotland. However, Clyde Muirshiel is the first park that has been attacked—and quite vigorously—by developers.

Why is it that, for generations, man and Government have not valued our natural environment as a very important national asset? Government should put a price tag on such natural assets and they should be as precious as a gold reserve. A healthy natural environment is an ecological life-support system. Our natural environment provides loads of goods and services. Believe it or not, all of us have taken them for granted. However, they are vital to human life, to the quality of life, to the climate and to people's livelihoods as well as their recreation. In fact, they provide a green service to us all.

Now that we are more aware of green issues, I feel that we should, as a nation, consider national and regional parks as a vital plank in the future wellbeing of our nation. With appropriate policies and good structures, the parks could and should deliver a green way of life for many of us. As well as providing services, much of our green environment is traditionally viewed as providing free benefits to society, which we take for granted and assume will always be there for us. That includes wildlife habitats, biodiversity, water purification, carbon storage and scenic landscapes.

Lacking a formal market, our parks are traditionally absent from society's balance sheet. Their critical contributions are often overlooked by public, corporate and Government decision making. However, it is important to me that we protect them. Because they are undervalued, they are increasingly susceptible to development pressure and conversion to urban use. It is easy for people to make such development decisions just to get developers out of their hair.

Is it not time that our Government listened to the wishes of its people and took a firm stand against developers in the parks? We know that thousands of people are concerned about the issue. Community councils reflect the wishes of people from all walks of life and from all political parties in that regard. That is why we feel that the issue of developments in parks should be a national issue.

The decline and loss of our national parks cause significant harm to our nation's economy as well. Because our parks are being forced to absorb major change by Government vis-à-vis wind farms, they will continue to be undervalued. Clyde Muirshiel regional park is beginning to be undervalued, because we can already see the wind farms coming up. In fact, the map on the table before us is not correct, and I will ask Robert Maund to explain the ways in which it is incorrect.

An awful lot more is happening in the park than appears on the map.

The sad thing for us is that developers and reporters in public inquiries are trying to tell us that the Glasgow and Clyde valley structure plan and the Ayrshire structure plan do not really matter and that wind farms will not affect in any way the wonderful wildness of our parks. I feel that the developers and the reporters underestimate the general public and the thousands who live in and use the parks, because we see, for example, the south side of Clyde Muirshiel park being eroded year by year.

**The Convener:** I know that this is a round-table discussion, but it is your petition, so I thought that it was appropriate to hear from you about the concerns that you still have, particularly given that the petition has been in our system for a few years.

We have heard about the proposed bill, which was outlined by Kenneth Gibson, and we have heard from Sybil Simpson about the petition and the locations concerned. I invite comments and observations from committee members and from those who have been invited along as specialists or people with an interest in the areas concerned. I am happy to hear your views. Who wants to kick off?

15:15

**Nigel Willis (Save Your Regional Park Campaign):** Could Mr Maund explain this map, which unfortunately is very incomplete?

**Robert Maund (Scottish Campaign for National Parks):** Sybil Simpson initiated the petition because it was clear to us that Government guidance on the location of wind farms was not working, although that does not mean to say that it was not well intentioned. Clyde Muirshiel regional park is the best example of that. It is 118 square miles and 35 square miles at its heart is a site of special scientific interest and a special protection area. However, it has been the subject of an ad hoc, unplanned, developer-led assault by the wind energy industry. To appreciate the scale of that assault, it is necessary to look at the map.

Your briefing note refers to eight applications in or partly within the park. In practice, there are 13 schemes. The ones that are missing are applications for 22 turbines on Corlic' Hill in Inverclyde; 10 at Inverkip in Inverclyde; 20 on Ferret of Keith Moor in Inverclyde; 16 at Skelmorlie in North Ayrshire; 13 at Hunterston in North Ayrshire; six on Millour hill in North Ayrshire, which is referred to in the key but not shown on the map; and three at Glenlora in Renfrewshire.

There have now been four approvals—one by ministers and three by North Ayrshire Council—two withdrawals and five refusals. There are three outstanding refusals. Two are being appealed and the other is likely to follow. That would bring the number of public local inquiries in one area to six.

If Government guidance was clear and was working, a lot of time, effort and resources could be saved. Developers have been unresponsive to the site of special scientific interest and the special protection area and the fact that the whole park is an area of great landscape value and an International Union for Conservation of Nature category 5 protected area in exactly the same way that all the national parks throughout the United Kingdom are.

The three local authorities that are responsible for the park—Inverclyde Council, North Ayrshire Council and Renfrewshire Council—clearly do not wish to see further turbines in the park. Their local plans and structure plans clearly reflect that, but they are being pressured, through the appeals process, to allow some.

Government guidance said that regional designations should be protected, but not as strongly as national designations. In reality, there is no way that the impact of a 400ft structure can be ameliorated. Park users' countryside experience is destroyed.

The park is a vital resource for conservation and landscape, health and wellbeing, education, recreation and leisure and tourism and the economy. More than 1.25 million people are recorded as using the park every year. Given all those who just walk out into the countryside and who are not recorded as using the park, we could probably say that 1.5 million to 2 million people use the park every year. The park is in grave danger of being destroyed because there is equivocation and a lack of clarity in the guidance, which is not working.

**The Convener:** I am conscious of how difficult this issue is because there are competing pressures. Robert Maund and Sybil Simpson have raised concerns. I wonder about the role that Scottish Government officials can play. I know that there are many pressures, given the different commitments that have been made by both the previous Government and the present Government. How do you try to accommodate the concern that there could be an endless amount of development in a regional park that does not respect why the park is treasured by the local public?

**Graeme Purves:** I acknowledge that there has been quite a lot of development interest in Clyde Muirshiel. Mr Maund referred to a number of proposals that are not shown on the map. The

reason why several of them are not shown on the map is that they have either been withdrawn or been refused permission, which means that they are not live proposals. Some of them are shown on another map that is among the material that has been submitted to you by the petitioners.

**The Convener:** I understand that, and it is helpful to have that clarification. However, in terms of the principal issue—

**Graeme Purves:** You are right that planning policy is trying to do two things. It is trying to provide a supportive network for the development of our renewable energy capacity—given the ambitious climate change targets that we have given ourselves, that is necessary—but it is also trying to protect the environment. I do not accept that the planning system undervalues our environment. It attaches great importance to protecting our environmental assets. I argue that the policy framework that is in place is robust and is entirely in tune with the sentiments that were expressed by the First Minister in May 2007.

**Rhona Brankin:** I know that some piece of research—whose name I cannot recall—has shown that, given that Scotland has around 23 per cent of European wind energy resource, more than enough energy for Scotland's needs can be produced in Scotland without impacting on any area of special environmental designation.

It strikes me that having six public local inquiries is a ridiculous waste of public money, apart from anything else. You have helpfully set out how the planning system is being reformed and I understand that work is under way in that regard. I note that you say that it is important to balance the need to reduce carbon emissions with the impact of developments on the environment. However, I do not think that the balance is right at the moment. In what way will the balance be changed to ensure that what is happening in this park does not happen in other places? I represent Midlothian, which covers a part of the Pentland Hills regional park, and I understand the importance of such areas.

I am seeking reassurance that the planning system is changing in such a way that we can deliver carbon emission reductions while not having ridiculous situations of the sort that appears to have developed in Clyde Muirshiel regional park.

**Graeme Purves:** Over the past year, we have conducted a consolidation exercise with regard to Scottish planning policy. The issue, therefore, is not about creating new policy—when the new SPP is published, planning policy will remain substantially the same as it was. However, we have taken the opportunity to clarify matters and have specifically addressed the issue of regional

parks. Those parks have been designated because of their recreational value to urban populations, and the policy states clearly that planning authorities should take account of the reason for that designation in making decisions that affect those parks. That is a clear signal to planning authorities—and developers—that the recreational value of the parks is important and should be protected in planning decisions.

**Rhona Brankin:** Are you saying that it is okay for there to have been six PLIs and for there to have been a cumulative impact on an area as a result of such a number of applications?

**Graeme Purves:** Cumulative impact is a key consideration for planning authorities. The fact that a number of developments have already taken place makes that an even more important consideration when any other proposals for development in the park are considered.

**Sybil Simpson:** I have heard that argument being made by the local authorities many times at the PLI, and I have seen the advocate for the developers shatter it by saying that SPP 6, on renewable energy, does not protect regional parks. What you have just said saddens me considerably, because what you are really saying is that your new planning policy will not specifically say that regional parks are equal to national parks.

**Graeme Purves:** It certainly does not say that, because regional parks and national parks are different and are defined very differently in the legislation. They have a different status: regional parks have a regional status, whereas national parks have a national status. Regional parks are not equivalent to national parks; they are not, for example, junior or cadet national parks—they are defined much more narrowly than national parks. Regional parks have recreational value, whereas national parks are natural and cultural resources of national importance, so they are different in character.

**The Convener:** We will need to come back to those points. I missed out John Wilson—sorry about that.

**John Wilson:** I want to understand why so many wind farm developments have been proposed for Clyde Muirshiel regional park. We need to concentrate on the situation there rather than on the Scotland-wide situation. I am reminded of last week's statement on the Beaulieu to Denny transmission line, when I think the minister said that about 85 per cent of the renewable energy in Scotland would come down that line. If that is the case, why do we need the plethora of wind farms for which applications have been made in areas such as Clyde Muirshiel regional park?

For me, the issue is where the market is for that renewable energy. Is it in Scotland or—just to be controversial—given that the area that we are talking about is conveniently close to the Irish Sea, is it in Northern Ireland or Ireland? I need to get responses from the Scottish Government officials on that. Given the number of wind farm developments that are in the pipeline for Scotland, we need to be clear about what the market is for that renewable energy. The issue is not just about the recreational value of some of our countryside assets; it is about the wildlife, too. There is a hen harrier population in Clyde Muirshiel regional park that is fairly unique to the area. If we go ahead with some of the proposed developments, they will have an impact not only on recreational use of the park but on some of the wildlife in it.

We need to find out what the Government is trying to achieve through the number of wind farm developments that have been proposed and how developers are getting away with such proposals. If we can meet our targets on renewable energy, where will all the additional energy that is to be produced be used? Is it simply the case that developers are picking an easy target in regional parks? Are they making applications to build wind farms in such locations because they know that the Scottish Government has renewables targets and they think that they can circumvent some of the planning policies and, in doing so, generate energy that we can sell elsewhere?

**Jamie Hume (Scottish Government Business, Enterprise and Energy Directorate):** I am happy to respond to some of those points.

First, I will deal with the point about the market for renewable energy. The largest stimulus for renewable energy developments is the renewables obligation certificate system, which works on a United Kingdom level to make onshore wind commercially viable. Scotland is already a net exporter of energy, and it is a clearly stated Government ambition for it to remain so. Last year's inquiry by the Economy, Energy and Tourism Committee showed that there is wide cross-party support for the notion that Scotland's extremely high level of resource in onshore and offshore wind and wave and tidal energy carries with it highly significant economic opportunities. A policy that works to encourage and facilitate the development of those opportunities has potential benefit for Scottish firms, job creation and so on. That is the broad direction.

John Wilson alluded to the idea that, as we approach our own domestic targets for renewable energy, there should perhaps be a corresponding tail-off in support for renewables. Is that the case? The answer to that is no. Those targets are perceived less as a ceiling and more as a floor for our ambition, because there is a significant



international market for renewable energy, not just in Northern Ireland and the Republic of Ireland but in the rest of the UK. For instance, proposals are going ahead for grid interconnectors down the east and west coasts to enable more of that power to be exported, while the idea of a North Sea supergrid is gradually gaining momentum and has strong support at Government and European level.

15:30

It strikes me that there are a few sets of issues here. There is the developer mentality: what is driving the applications and how many more of them might there be in future? There is the clear question of what resource is required, and there are the PLIs, how much of our collective resource gets sucked into administering the applications, and the Government role in managing that.

The case history is interesting. I run the section 36 consents team—applications under section 36 are for anything of 50MW or more. There are the schemes at Ladymoor, which has been withdrawn, and Corlick Hill, which was refused. Of other applications that have been submitted, it is widely understood that there is a high level of opposition to the Waterhead Moor scheme at the local community level and from statutory consultees. It is classed as an application although in fact for three or four years it has been more of an intent to submit an application. The environmental statement has still not come through, which reflects the difficulty of progressing the application from a developer perspective, the opposition that the application has already met, and the case history. Other cases, such as the Lewis wind farm, have shown that the current system does what it says on the tin in terms of protecting designated areas and accommodating the views of the statutory consultees.

As recently as just a few years ago, the consenting system was quite slow and bureaucratic. A lot of effort has gone into speeding it up and getting quicker decisions for developers and greater clarity on proposals at an early stage, so that we avoid, for instance, unrealistic proposals getting all the way through to public inquiry.

It is a slow process, but there are definite signs of progress. On the one hand, we are providing a joined-up and coherent system among the Scottish Government, SNH, the Scottish Environment Protection Agency, and local authorities and so on, which offers surety and speed of decision—we now have a nine-month turnaround target for developers. On the other hand, there is an obligation for everyone to play the game and not to submit unrealistic applications or applications that will bog down everyone's resource in costly and time-consuming inquiries.

Based on the case history of section 36 applications and proposals such as Waterhead Moor that have been sitting more or less stagnant in the system for a few years, it is recognised that further large-scale developments such as Waterhead Moor are unlikely to be worth the resource that developers will need to put into them to make progress. Obviously, local planning issues and sub-50MW proposals are a separate discussion but, as far as section 36 goes, we feel that the process is working well. The case history of section 36 applications over the past few years shows that no schemes of that size have come through. We feel that the notion “renewables but not at any cost” is being pretty much borne out as events unfold.

**Kenneth Gibson:** We seem to have heard contradictory statements from Mr Hume and Mr Purves. Mr Purves talked about consolidation in applications for Clyde Muirshiel regional park, whereas Mr Hume seemed to say, in response to John Wilson's questions, that there would never be a limit on renewables developments.

Last week, there was an announcement about 4.8GW of offshore wind in the Scottish sector to 2020. There are proposals for carbon capture and storage plants at Longannet and Hunterston, and there is the possibility of a new gas turbine at Cockszie and hydroelectric power in the Great Glen. Today there were two announcements about wind farms in Rothes and Caithness. North Ayrshire Council, which covers part of the regional park, has already made it clear that it can meet its renewable energy obligations without having to go into Muirshiel park.

Most of the people who are opposed to those unwanted developments, including all the local community councils, bar none, want to know when enough is going to be enough. Despite what you have said, I do not think that there has been an unequivocal statement that we will not permit developments beyond a certain amount. Developers seem to have an amber light, if not a green light, to continue to put in applications. As Robert Maund said, that wastes everyone's time: the developers might or might not be successful at tremendous financial cost to themselves, and the protesters do not want to spend their whole lives having to fight application after application.

Question 4 in my consultation asked:

“Do you think the Scottish Government is doing enough to maintain and protect Scotland's regional parks? If not, what are your recommendations?”

No one really said that the Government is doing enough to protect the regional parks; there is no confidence that the Government is doing the right thing. Regional parks are different from national parks, and people accept that there is a difference, but the adopted aims for regional parks are more

or less the same relative to national parks. They want to do similar things: enhance the landscape and the natural and cultural heritage of the area, widen opportunities for local communities and beyond, protect the asset, and make the recreational amenity attractive and popular in those special areas.

Most of us who are against further developments in regional parks are saying that, 100 years from now when we are all long dead and gone, we want the people who come after us to be able to enjoy the asset as it is now, not two thirds, three quarters or half of it. That is why we are opposed to the relentless chipping away of 50MW here and 25MW there that is effectively ruining that asset.

On the economics of the situation, back in February 2008 when the petition first came to the committee, the Scottish tourism economic activity monitor researched visitors' attitudes to the regional parks and showed that up to 27 per cent said that they would not return to the park if more turbines were erected. That would have a significant economic impact on the tourism industry in that part of Scotland. I therefore suggest that it is time for the Scottish Government to be much less ambivalent and much more direct about saying what its position is, and that that position should be that no more wind farm developments should be agreed for regional parks.

**Jamie Hume:** Convener, may I clarify something?

**The Convener:** Yes, if you wish.

**Jamie Hume:** I referred to the ambition to continue to support the renewables industry in general on a Scotland-wide basis. Whatever Graeme Purves was saying about the park, I do not see—

**Kenneth Gibson:** He said that there would be a limit in the park without specifying what that limit would be. You were talking about Scotland. What is the limit? The situation appears to be contradictory because you are looking for a way for Scotland to expand its renewables potential exponentially, but it cannot continue to do that unless more or less every area in which wind farms and other such developments are possible is developed. I do not believe that many of us want to see that; I certainly do not.

**Graeme Purves:** I was talking about the cumulative impact in a particular area.

**Kenneth Gibson:** Yes, you were, but you did not say what, in your or the Scottish Government's view, that limit would be. When will enough be enough? That is the point about the cumulative impact. Why does there need to be any impact? In

the two years or more since the petition was first submitted, we have already had umpteen offshore and onshore wind developments, not to mention all the other renewables developments.

**Graeme Purves:** Ms Simpson made the point that they are large, prominent structures, so they will inevitably have some sort of visual impact. It is a question of whether the impact on the environment is considered to be acceptable. They cannot be hidden behind a bush; they are big structures so there will be an impact if they are built.

**The Convener:** Robin Harper wants to say something but it is on a different topic. Rhona Brankin wants to ask something about this issue.

**Rhona Brankin:** Yes. With the best will in the world, Mr Gibson, you are talking about a policy issue. Far be it from me to protect civil servants, but I think that you might do better to address your policy comments to the minister in your own party.

**Kenneth Gibson:** I have.

**Rhona Brankin:** I am still not clear whether SPP 6 covers regional parks.

**Graeme Purves:** The policy framework in SPP 6 certainly covers regional parks, but it does not mention them specifically. We have remedied that in the consolidated SPP that we are introducing, which talks about regional parks. In essence, it indicates that planning authorities should protect the parks' recreational value.

**Rhona Brankin:** Will that make a difference in the part that we are talking about?

**Graeme Purves:** It will certainly make the issue clearer, but the policy framework remains substantially the same.

**The Convener:** There is a wee flurry of members wanting to ask questions, but I promised Robin Harper that he could speak. I will let Nigel Willis in first and then Robin Harper.

**Nigel Willis:** The proof of the pudding is in the eating. Only last year, after a PLI, the Kelburn wind farm was allowed through by the Government. One main plank of the argument in favour of it was that the designation of the landscape in that part of the park had been changed to moorland with wind farms—that was one of the main reasons given for the minister's decision after the PLI. It is complete nonsense to say that there is any protection in either SPP 6 or the new system; it is still completely open to interpretation in any way you like. Probably, the new one has less protection than the old one, because a series of big documents has been reduced into one small one.

**Graeme Purves:** We would argue that the guidance is much more focused and therefore much clearer.

**Nigel Willis:** I would like to hear Mr Maund's comment on that, because he has greater experience than I have.

**Robin Harper:** I have several observations and questions. I was rather worried about the condensation of the SPPs, as some significant things have been left out on other occasions. I would like an assurance from the Executive, or at least an opinion, that the modifications that are being made will get the ducks in a row better and that the system is trying to adapt to cope with the huge pressures that are inevitable from the development of renewables.

I cannot resist the temptation to make a couple of contextual references. Protecting the environment is in essence about biodiversity. It is not about the shape of the hills, as we cannot alter that, but we can destroy biodiversity. Over the past 1,000 years, deforestation and sheep farming have done more to destroy biodiversity in Scotland than any other single activity. Any destruction—shall we say—that is wrought by the renewables industry will pale into insignificance compared with that.

It is of course not only electricity from wind that is projected to come down the new Beaully to Denny line. I hope that a huge amount of electricity will be contributed by the development of tidal and wave energy in the north of Scotland. We must bear it in mind that we have up to 40 per cent of the European Union's potential for wind, wave and tidal development. It will be difficult for the European Union, let alone the UK, to reach any target under any Copenhagen-style agreement that is reached in future if we do not commit ourselves to developing that potential as far as we can without the kind of damage to our environment that would be unsupportable.

Of course, you cannot make omelettes without breaking eggs, and most of the damage that people complain about relates to the visual impact of the power lines. It is incontrovertible that the nature of the regional parks will be changed if there are too many power lines and windmills on the horizon. I am sympathetic to people's reactions to wind farms on that basis, and I think that it should be at least advised that consideration should be given to the likely impact of wind farm developments in regional parks. Nevertheless, it is not just inevitable but our duty to ensure that there is some development of wind farms over the whole of Scotland.

15:45

**The Convener:** I am conscious of the time, as we have several other items that we must get through today. One of our members also has to leave for another committee meeting shortly. Are there any other pressing issues that people want to raise? A number of those who have been involved with the petition want to speak but, with due respect, it may be helpful to hear some final comments from Sybil Simpson, given that she is the key petitioner.

**Sybil Simpson:** Common sense must prevail, and I wonder whether anyone has a vision of what Scotland will look like when the renewables policy is fully in place. We will still have to sustain a tourism industry, but that is beside the point. As someone who has worked in education for 40 years in the Strathclyde region, and Glasgow in particular, I have witnessed at first hand serious health concerns because of obesity in children and parents. You say that there is a different description of regional parks. My understanding of regional parks is that they were established so that people who were trapped—not by snares, but by cities—could get out into the green areas to improve their health and do all sorts of recreational things. I remind the committee that one of the most successful RSPB centres, with many different protected species, is in Clyde Muirshiel park.

It is all very well to say that the local authorities will protect the areas that they want to protect, such as the parks. They are working their butts off to do that, but when there is a public inquiry we will have reporters and advocates from wind farm companies knocking holes in SPP 6. I hate to think it, but I have no doubt that they will knock holes in the new planning regulations as well in order to get their own way and that the ultimate decisions on the big wind farms will lie with the Government. The local authorities will protect the regional parks as much as they can, but when it comes to the big wind farms they have no chance.

The development at Kelburn was allowed because we have six turbines at Wardlaw wood. Because the Kelburn development was allowed, the development at Millour hill has been allowed and the proposal for Kaim Hill, which has been turned down by North Ayrshire Council, will no doubt go to a public inquiry. Then, because of the developments at Kelburn, Millour hill and Wardlaw wood, the Government will say, "Och, that's just another addition to the cumulative effect," and that will be the south part of the park written off. I rest my case.

**The Convener:** Thank you. Today will not resolve those fundamental issues. A range of discussions needs to take place; the purpose of this afternoon's discussion was to pull some of the

issues together. Others, such as Scottish Renewables, have communicated to me their views on the matter and the written submissions are all in committee members' papers for them to read. Kenny Gibson is to pursue a member's bill on the subject, and I hope that the discussion will encourage the dialogue that he needs to have with ministerial colleagues to concentrate their minds on the difficult issues.

I am conscious that the Scottish Government representatives may have been constrained by the nature of some of the questions because, as officials, they do not make the final decisions, but they have helpfully given a reasonable account of the Government's perspective. We will have an opportunity to bring back our further thoughts on the issue at a subsequent committee meeting, at which time we will determine whether this committee can assist with the issue or whether other avenues should be explored to address the concerns that the petition raises.

I thank the witnesses for their time. I suggest that committee members remain where they are seated in order to save us time.

### **Scottish Prison Population (Catholics) (PE1073)**

**The Convener:** I seek members' indulgence. Although the next petition on our agenda should be PE1302, on Larbert rail noise and vibration, I know that a member who has an interest in PE1073 needs to leave shortly, therefore I ask members to agree that we consider PE1073 before Colin Sloper's PE1302.

#### **Members indicated agreement.**

**The Convener:** We will not spend a lot of time on PE1073. I welcome the Scottish Parliament information centre's Graham Ross, who has previously spoken to us about the petition. PE1073, which has been in the system for a considerable time, urges the Parliament to investigate and establish the reasons for the apparently disproportionate number of Roman Catholics in Scottish prisons.

At our meeting in November 2009, we asked for further deliberation on whether research could be carried out into the issues that the petition raises. On 26 November, SPICe sent a scoping paper to a number of academics, who were asked to comment on the questions that the committee raised. We have received responses from some academics, including a joint response from Joseph Bradley of the University of Stirling and Susan Wiltshire of the University of Leeds.

We have some options to consider, but I will first invite Nigel Don to make some observations, as I

am conscious that he must be somewhere else shortly.

**Nigel Don (North East Scotland) (SNP):** I thank the convener and other committee members for indulging my programme, which, people will understand, was not created by me.

I hope that I have the right end of the stick on this, but I am concerned about the proposed research methodology. That is not because I wish to tell researchers how to investigate the subject, but because I am concerned about what we are trying to research. I want to take this opportunity to point out that science very rarely proves anything. Scientific method is about doing your level best to disprove something. When you fail over a large number of attempts to disprove something, you tend to believe that your hypothesis is true.

If we were to research whether people in Scotland thought that they had been discriminated against in any context, I am absolutely sure that we would manage to find examples, but that would not tell us very much. In this case, as I understand it, the research would try to find out whether discrimination in the criminal justice system might account for what we agree is the disproportionate number of Catholics within our prison community. If I have that right, what we should be doing is testing the hypothesis that there is no discrimination. We should ask our researchers to look at the information on those who, as it were, present to the front door of the criminal justice system—by which I mean those who are perceived to have undertaken some kind of criminal activity—to see whether that population correlates with those who finish up in, if I may use such a phrase, the backyard of the criminal justice system, by which I mean our prisons. We need to ask our researchers to look at all the data that they can find to see whether that proportion of prisoners reflects the proportion of those in our society who tend to indulge in criminal activity, which is what I think the minister and others have suggested. If we do that, we will see whether there is any discrimination.

I am concerned that we get the science the right way round. If all the data that the researchers can put together are as incomplete and uncertain as I fear they are, the researchers will have to ask themselves what assumptions they will have to make to demonstrate that the hypothesis is still intact. Looking at those assumptions will tell us whether the hypothesis is intact. If the assumptions that they have to make with regard to the statistics are so improbable that we do not believe them, that will demonstrate that there may be some discrimination. If, on the other hand, the researchers can rationalise the input and the output of the system one way or another, that will tend to suggest that the system is okay.

I add that I am not in any sense naive about the likelihood of there being discrimination in our society in different places and that I am not attempting to suggest that there is not an historical tendency. I am not at this stage trying to pass any comment at all on the criminal justice system, because I am sure that those who work in it are very professional, but I am concerned that we get our science the right way round.

**The Convener:** Are there any other comments on how to progress the petition?

**John Wilson:** Nigel Don is right: we need to ensure that we set the correct parameters for the research. Although the petition refers to the proportion of a particular religious group whose members are in the prison system, the committee, or at least some of its members, have argued that the focus should be widened to consider the number of members of other religious groups who are in prison. I have a point about broadening the research. The difficulty is that we have to go back to how many people are charged, what their religious affiliation is and how many of them end up in court, and then whittle it down to how many of them end up in the prison system. It is necessary to broaden the research in that way.

We can definitely say, in terms of the statistical evidence, that X number of Catholics, Y number of Muslims and Z number of Sikhs are in prison, but we cannot look at how they find themselves there and how the criminal justice system deals with each group. That would, unfortunately, almost imply that religious discrimination was taking place in wider society in dealing with particular religious groups. We could end up saying that particular religious groups are more inclined to commit crimes that lead to them being imprisoned. If that were the case, there would be a much wider issue about how we view religious groups in Scotland.

If we are going to do this properly, the research has to be widened to gather information on the initial charges, the initial court appearances and the decisions by various court officials on how to deal with the individuals, because we could end up with research that says that a member of a particular religious group is more likely to commit a criminal offence and end up serving a custodial sentence as a result of that offence than are members of other religious groups. It could get to the stage that we are almost profiling based on religious grounds, and we could end up identifying particular groups and saying, "They are more likely to end up in prison, so let us deal with them—fast-track the system and imprison more of them, because that will hopefully deter them from committing crime in the first place."

16:00

**Robin Harper:** It strikes me that a detailed, sophisticated approach is needed. If we concentrate just on the Catholic community, we may come up with a skewed result. We need to identify the factors that are most likely to affect the likelihood that someone will be involved in criminal activity and confrontation with the law. For example, a disproportionate number of young men who have been in care land up in prison—it is well known that a direct link has been established in that case. It might be a good idea for us to look at whether a disproportionate number of young people who have been in care happen to be Catholic. If so, we would expect a disproportionate number of that subset of young people, compared with the general population, to be in prison.

I am sure that the church has a definition, but how do we define who is a Catholic? Is it someone who is a practising member of the Catholic Church, someone who comes from a Catholic family, someone who comes from a Catholic area or someone who supports a football team that was Catholic historically? What are our definitions of who is a Catholic? People may have different attitudes to the issue. We must be very careful about definitions before starting.

I am concerned about the lack of a control group. I agree entirely with John Wilson that we should take the overall number of people who are charged as a base group, so that we can compare it with what comes out of the other end of the legal system. If 50 per cent of the people who are charged are Catholic, we would expect 50 per cent of the same group to land up in prison—that would be reasonably proportionate and fair. However, if only 20 per cent of the people who are charged are Catholic, by any definition, but 40 per cent of those who land up in jail are Catholic, that would clearly be disproportionate.

**The Convener:** Essentially, we are trying to work out the research option. The issues that members have raised can be explored through that.

**Robin Harper:** Is it possible for us to request more detailed descriptions of how a research project might look?

**The Convener:** I invite Graham Ross to respond, as he has been in dialogue with academics on the issue. I am not an expert on sociological assessment, but the petitioner has raised an issue and we have tried to address it. We have identified more effective research as one way of doing that. It is for those who carry out statistical analyses, rather than for me, to arrive at definitions, which are difficult.

**Graham Ross (Scottish Parliament Research, Information and Reporting Group):** From the

inception of the petition, we have focused on the specific issue that it raises: the number of Roman Catholics who are in prison in Scotland. The raw numbers stack up—a disproportionate number of Roman Catholics are in prison in Scotland, compared with the overall population.

I take on board the points that Nigel Don, John Wilson and Robin Harper have made, which could form part of a research proposal that we put to the Conveners Group. As Robin Harper said, we could explore further exactly what that research might entail. As members' opinions form and people think about different things, the scope of the research becomes wider. Our concern is that it will become too wide and miss the specific issue that the petition raises: the number of Roman Catholics in prison.

The academics who responded to our scoping paper commented on the point about including the Muslim population as well. They said that that should be a separate area of research in addressing the issues in the petition, because the Catholic minority in prison is a specific white minority group and little is known about how they end up in custody. A lot is known about the link between social and economic deprivation and offending behaviour across all groups—that is well established—but, if the committee wants to explore further the factors that affect specific religious groups, the project might widen.

We can go back to the academics and say that we need more information and need to know exactly what the scope must be to get to the nub of the problem, not only for the Roman Catholic population but for other minorities that end up in prison. However, it is a decision for the committee to make.

**The Convener:** We must try to move the petition forward.

**Rhona Brankin:** I have come to the committee only in recent months, but the matter does not strike me as necessarily a major issue. I probably have more concerns about the number of people in Scottish prisons who are dyslexic. I would be concerned if the committee took the petition any further.

**Robin Harper:** What would the consequences be for the research if further research into the current social and economic state of Scotland showed clearly that, as would be possible, a disproportionate number of Catholics were in the lower-income groups and groups suffering from multiple deprivation?

**The Convener:** We are in between a number of things. Members have raised two or three important points, so we should try to find greater clarity on the matter. We wanted to bring back the petition. We are trying to respond to the issues

that the petition raises. We have had it for a long time, and we agreed in previous discussions that we would like to do some research. We have identified academic researchers who have identified a number of approaches that they could take, and we are focusing on that today. Do we want to get further information and come back to the petition or not?

**Nanette Milne:** I am inclined to agree with Rhona Brankin about the relative importance—although I hesitate to say “importance”—of the numbers of people whom the petition refers to and the numbers of dyslexic people in prison. I will be guided by the clerks: should we go ahead with any further research?

**The Convener:** That is the decision that we make as committee members. The poor clerk is having an apoplexy at that question. I am trying to be consistent with the position that we took: we received the petition and identified issues around it; a number of members raised concerns about other religious minorities in prison; we identified ways to broaden our consideration; and the researchers tried to identify ways to do that research.

**Bill Butler:** I apologise to you and other committee members, because I had to step out of the meeting for a minute or two and missed the beginning of this item.

We should not present a research proposal to the Conveners Group immediately. However, from what I was able to pick up from what John Wilson and Robin Harper said, I think that we should further explore the scope of the research so that, if possible, it is focused in a way that avoids it being skewed. We need a research proposal that is much more focused on the concerns that the petition raises in the first instance.

That might seem a long and roundabout way of arriving at the same point, but I am not convinced that, if we made a proposal to the Conveners Group, it would stand the test of scrutiny at the moment.

**John Wilson:** When the committee first considered the petition, I talked about other minority groups, because the proportion of prisoners from other minority groups is far higher than the proportion of the Catholic population that is in prison. High proportions of prisoners in Scottish prisons are from particular religious groups, but my major concern is that the proportion of Muslims who are incarcerated in Scottish prisons seems to be higher than normal—if it is possible to have a normal proportion—or higher than expected in a society where we know the percentages, because that proportion is higher than the proportion of Muslims in Scotland's population. I do not have the paperwork that I

quoted when we originally discussed the petition, but I believe that the proportion of prisoners who are from the Muslim community is almost 50 per cent greater than the proportion of those who are from the Catholic population.

I have concerns about how we scope research. We could concentrate on one religious grouping, as the petition suggests, but, in subsequent responses to the committee, the petitioner accepted that we needed to widen research to cover people from other religious groupings who are in prison. Although he raised the issue of the Catholic population in Scottish prisons, he failed to understand the proportions of other religious groupings who are in Scottish prisons.

**The Convener:** I ask Robin Harper to be brief, because I want to conclude this item soon.

**Robin Harper:** It has struck me for a long time that we need to entertain the possibility that, if there is discrimination against Catholics, it is historical and social. The least likely place to find discrimination against Catholics might be in our courts. If a problem exists, it lies elsewhere.

**The Convener:** I call Graham Ross.

**Graham Ross:** Briefly, convener—

**The Convener:** We need the wisdom of Solomon.

**Graham Ross:** You are asking the wrong person.

If we consider all the points that members have made, we could go round the houses. I have worked on the criminal justice system and Bill Butler has been involved in the Justice Committee, and we know that the subject is huge. The scope for research could be so wide that we lose the focus on the petition. Rather than our continually providing scoping papers and sending them to academics left, right and centre, I suggest that it might be worth while for the committee to hold a one-off evidence session to bring in the academics who responded to the paper that we produced in November, along with other academics, to discuss the scope of any research and the best way forward to examine the problems that the petition describes, and possibly some wider problems. That would give the committee the chance to hear from academics from other quarters, as well as from those who responded, and might allow the committee to decide whether to commission external research. The one thing that I will say is that, if academics are invited to give evidence, they will say that research is needed. However, it might be better to ask the academics who are involved about all the issues that have been raised.

**The Convener:** We will not have answers until we ask questions of the individuals who work on

such policy. None of us has the specialist knowledge to interrogate all the stuff. We can identify directions of travel, but we would hope that academics would provide much of the detail.

Are members comfortable with following Graham Ross's suggestion rather than seeking the Conveners Group's support to commission a full research paper?

**Bill Butler:** Yes, because we are in no position to approach the Conveners Group, to be frank. We can all agree on that. I am not against talking to academics, provided that they realise that we might simply say, "You're wrong," or, "We disagree." As long as they are sanguine about that, I am sanguine about approaching them.

16:15

**John Wilson:** Although I welcome the suggestion that we invite academics and people with experience of the court and prison system, if we are going to have a round-table discussion on the petition, we should widen it out and invite representatives of the Scottish court system. That would send other agencies the message that we are looking at the issue and would allow them to tell us how they gather data—or should that be left for another day?

**Bill Butler:** First, I would rather not widen things out like that, because we would be doing so without having asked academics whether we can scope the issue in a focused and productive way.

Secondly, I am sure that round-table discussions can be wonderful, but I would rather have a formal question-and-answer session with two or three academic witnesses. That would allow us to take a more focused approach, whereas round-table discussions can, despite the best intentions of the convener and members, be rather unfocused.

**Rhona Brankin:** I am conscious of the time, but I would like to take a more fundamental look at what we should do with this petition. I realise that it has gone some distance with the committee, but we need to spend a bit more time discussing it. I certainly do not think that we should make any decisions on it today.

**The Convener:** That is different to Bill Butler's proposal.

**Bill Butler:** One compromise is that we go ahead with what I and other members have suggested but that, before we do so, we have a private informal session for members to chat about the issues that have arisen today.

**The Convener:** I will try to pull this together. I suggest that we discuss privately the issues that have been raised on the petition and determine from that whether to have the question-and-

answer session that John Wilson and other members have proposed. Do members feel that that is the best way to proceed? Members have raised a number of substantial issues, and we might not reach complete agreement on how to proceed. The two options would at least allow us to move forward.

**Bill Butler:** I really want to avoid going to a division over this, so perhaps your suggestion represents the best way forward. I accept it, though with the proviso that we bring back the petition at the first available opportunity; indeed, we should accelerate it in the process.

**The Convener:** I am happy to accept that. I realise that this discussion has taken a lot longer than we expected, but I appreciate members' comments and I thank Graham Ross for his time.

## New Petitions

### Rail Noise and Vibration (Larbert) (PE1302)

16:19

**The Convener:** We move on—or, should I say, back—to consideration of new petitions. PE1302, by Colin Sloper, calls on the Parliament to urge the Government to ensure that greater consideration is given to the problem of noise and vibration generated by increasing levels of heavy freight on the rail network and to consider what action can be taken to encourage freight operators to use more track-friendly rolling stock.

Dr Richard Simpson and Michael Matheson have expressed an interest in this petition—indeed, Michael Matheson has sent us a letter that I presume all members have received—but the change in our agenda has meant that Dr Simpson cannot be here for our discussion. He got as far as the table and then had to retreat when we started to discuss the other petition. No doubt he will have a word with me after the meeting.

**John Wilson:** I should perhaps declare a personal interest in the petition—I live less than 100yd away from a railway line that is frequently used by Freightliner and DB Schenker.

I understand the frustration that has been expressed. Michael Matheson secured a members' business debate on the issue last year, and other members have shown an interest in the subject. Freight traffic causes a lot of disruption. The heavy freight traffic that goes along the railway lines where I live, particularly the coal wagons going from Hunterston to the power station, causes a lot of problems for people who live close by the lines.

Many people who live along the Alloa line were perfectly happy for freight to be moved down that line, but they had expected it to be moved only during the daytime, not in the evening. Where I live, freight is moved at all hours. I might occasionally be woken at 5 o'clock in the morning by heavy freight moving through the level crossing near where I live. Indeed, it now seems to be going through almost hourly, night and day. In his members' business motion, Michael Matheson raised the concerns of residents who live close to the line that runs through Larbert about the vibration, noise and disturbance that are caused by freight.

I would like the petition to continue. We should write to a number of organisations to find out exactly why that freight movement has been allowed to happen. Why are we moving such freight west to east across the country to its ultimate destination? It has an impact on the rest



of the rail network, causing bottlenecks on the passenger rail network. I suggest that we write to the Scottish Government to ask about its powers and about how it monitors and regulates freight transport. I am aware that the Scottish Government, like other organisations, has welcomed the use of the rail network for freight, but we need to seek its views given the disturbance, nuisance and, potentially, destruction that is caused by freight being moved across the country.

We should write to a number of local authorities, Clackmannanshire Council in particular. We could also write to Falkirk Council, North Lanarkshire Council and one or two of the Ayrshire authorities to find out about the impact on their areas. The situation affects not just Alloa but residents in several local authority areas who live along the railway line.

If the committee is happy with that proposal, I will leave it there.

**The Convener:** I think that the committee is supportive of keeping the petition open—I presume so from the nods that I have seen.

There are a series of questions that we will pursue with the Government and the Minister for Transport, Infrastructure and Climate Change about commitments on research and working with the petitioners to address some of the concerns that have been raised. John Wilson is right to mention local council authorities other than Clackmannanshire Council. The journey freight trains take crosses various local authority areas.

**Bill Butler:** Perhaps we could link the petition to PE1273, which is specifically about the Stirling-Alloa-Kincardine line.

I agree with John Wilson about writing to the Scottish Government and a variety of councils including Clackmannanshire Council. I suggest that, when we write to the Scottish Government, we ask it, as the principal funder of the SAK railway and as the body that appointed Clackmannanshire Council as the promoter of the bill, to confirm that every noise reduction and minimisation commitment that was made to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee in written and oral evidence, whether under oath or not, has been fulfilled. I guess that the answer will be no, but I would really like that question asked.

We should write to Network Rail about the issues in and around the petition and PE1273, and to DB Schenker and Freightliner to ask what noise minimisation features exist, if any, on trains that are used on that stretch.

**Robin Harper:** My comments and suggestion arise from Michael Matheson's point, which he

makes in his letter, about the technical issue of different types of bogie. It is striking that some of the bogies that are being used are twice as noisy as others. Quite apart from anything else, it appears that they are forbidden in parts of Europe because of the damage they do to tracks and the amount of noise they make, so I do not know why they should be inflicted on us in Scotland. Perhaps DB Schenker got hold of a job lot of them cheaply.

We should ask our Minister for Transport, Infrastructure and Climate Change to contact the UK transport minister, because Michael Matheson suggests that it is the UK minister's responsibility to change the regulations back to what they were; it was the change to the regulations in 1996 that allowed the less track-friendly types of bogie on to our railways. That should be reconsidered.

We should perhaps make a plea to DB Schenker. If it has a split fleet and some trains use the less noisy bogies, the company should be asked politely whether it will consider putting them on the route because of the huge amount of distress that its trains are causing. Other issues have been brought up that need to be addressed, but that might get at least a palliative result.

**Rhona Brankin:** Richard Simpson asked me to convey his apologies as he had to go to another meeting. He also asked me to make a couple of points, which I am happy to do. Like other members, he believes that the problem is that the rolling stock, certainly the DB Schenker rolling stock, is old and noisy. Night running did not happen in Scotland before 2002 or 2003—it is relatively recent. A response that Richard Simpson received from the Government states that the resurvey of households that was requested will begin in February—apparently, the Government agreed to that yesterday.

**The Convener:** There is a range of questions that we need to ask the Scottish Government, Network Rail, DB Schenker and appropriate local authorities. Like Richard Simpson, Michael Matheson has identified a series of questions, particularly about the nature of the rolling stock, the impact it has on noise levels, whether a lower specification has been used and whether there are better alternatives that could be used. We will pull those questions together. There are a lot of detailed questions and there are a lot of questions to which we have still not had full answers despite our previous discussion on the matter. We will rehearse those and resubmit them to try to get greater clarity.

Are there any final comments?

**John Wilson:** We might want to ask Network Rail what the impact is on the rail infrastructure in Scotland. As Michael Matheson states, the wagons weigh more than 100 tonnes. As 23

freight carriages are hauled at a time, does that have an impact on the infrastructure of the rail network? Does it have an impact on passenger trains' use of the rail network?

**The Convener:** We will keep the petition open because we still want to address a number of areas and raise specific questions with various individuals and organisations.

## Current Petitions

### Cancer-causing Toxins (PE1089)

16:30

**The Convener:** The next petition, which we have considered on a number of occasions, is PE1089, by Morag Parnell on behalf of the Women's Environmental Network Scotland, calling on the Scottish Parliament to urge the Scottish Government to investigate any links between exposure to hazardous toxins in the environment and in the workplace and the rising incidence of cancers and other chronic illnesses.

It is in members' hands how we deal with the petition. We have had a number of opportunities to raise matters on behalf of the petitioner. My view is that we have explored the issue as far as we can, so I recommend that we close the petition, unless members feel strongly otherwise.

**Rhona Brankin:** The paper from the Government more or less says that the issue is solely the responsibility of the UK Government, but my understanding is that, for certain substances in drugs, such as hormones, there is regulation in Scotland by—I cannot remember the name of the organisation that considers the safety of medicines, although I should know it. I am not clear whether we have explored that aspect. I have come to the committee late on in the life of the petition, so the committee may have looked at that previously.

**The Convener:** Rhona Brankin has raised an issue that she feels is worth exploring. Do we want to keep the petition open to explore that issue a bit further and then come back to it?

**Rhona Brankin:** I just seek reassurance that that area has been looked at.

**Fergus Cochrane (Clerk):** I am trying to recall some of the committee's specific questions. Unfortunately, I did not bring the back papers with me, but I know that the committee wrote to—I am trying to remember the name of the relevant committee; it is on the tip of my tongue. I cannot recall the specific questions that the committee asked, so I am afraid I cannot help on that.

**The Convener:** I will reverse my recommendation. We will keep the petition open to explore the issue that Rhona Brankin raised and we will come back to the petition at a future meeting.

**Robin Harper:** Nevertheless, I suggest that, meantime, we should ask the Government to forward to the Women's Environmental Network Scotland a copy of the minutes of the Minister for Public Health and Sport's meeting and invite the

Scottish Government to draw the petition and all the written submissions received by the Public Petitions Committee to the attention of the relevant expert committees: the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment; the Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment; and the Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment.

We should also invite the Scottish Government to keep in touch with WENS and draw the petition and the written submissions to the attention of the chemicals regulation directorate of the Health and Safety Executive, asking it to discuss the issues with WENS to reassure it that we are doing as much as we can to draw people's attention to the concerns that WENS has drawn to our attention.

**The Convener:** Okay. We will take those points on board and pursue them.

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

**The Convener:** PE1105, by Marjorie McCance on behalf of St Margaret of Scotland Hospice, calls on the Parliament to urge the Government to guarantee retention of continuing care provision for patients who require on-going complex medical and nursing care, such as that provided at the 30-bed unit at St Margaret of Scotland Hospice, and to investigate whether arrangements for funding palliative care provision at hospices in the context of the Scottish Executive's health department letter HDL(2003)18 are fair and reasonable.

Again, we have considered this petition on a number of occasions. Des McNulty has expressed particular support for the petition, so I invite him to say a few words.

**Des McNulty (Clydebank and Milngavie) (Lab):** I presume that members have before them the letter from Marjorie McCance to the convener. There were two issues in the initial petition. One involves the formula that governs how hospices are funded. Currently, hospices get 50 per cent of agreed costs towards palliative care. In practice, that means that some hospices get far more per bed than others, because it is the amount that the hospice can raise, divided by the number of beds that it has to raise money for, that determines the quantum of expenditure that it can look to claim 50 per cent of from Government.

The case of St Margaret's hospice has highlighted a significant anomaly in the way in which the funding arrangement works. Nowhere else in the health service uses a match-funding system. By and large, the health service operates on a pay-for-care basis. In my view, the system that operates in relation to hospices leads to a fundamental injustice.

The minister appears to have recognised that fact to some extent, which is why the Government agreed to set up a short-life working group. It was supposed to report by December but, of the three scheduled meetings, only one has so far taken place. The issue that has been raised by the petition has not been dealt with. The short-life working group has not completed its work, which means that, obviously, the minister has not had a chance to respond to its conclusions. That strand of the petition needs to be kept open until we get some further information about that and the issue is resolved.

The other issue concerns NHS Greater Glasgow and Clyde's proposals to remove the funding for continuing care beds at St Margaret's, in the context of a consolidation of continuing care provision on the north side the river on to three sites. The contention of St Margaret's has always been that that consolidation should not necessarily affect it. There is no necessity for St Margaret's to be roped into that process. The health board could have made a number of different decisions about how it dealt with the need for continuing care. St Margaret's has a high quality of provision. We do not wish to set ourselves against any provision anywhere else, including Blawarthill, which is only a quarter of a mile away from St Margaret's. However, it seems that the way in which the health board has gone about this process has created a tension between those facilities, which is genuinely unhelpful.

St Margaret's is looking for some security with regard to the continuation of the outstanding care that it currently provides—continuing care, sitting outside palliative care—and a sensible discussion that does not involve the health board saying, "We have made a decision, and you have to fit in with the arrangements, even though you have not been a party to the discussion." The hospice board and I have been seeking to create a genuine debate with the health board, but that seems to be extraordinarily difficult to do. The health board keeps coming back to the view that it has made a decision that St Margaret's has to go along with. St Margaret's, however, is saying that it would like to hear any reason, based on the quality of care or the management of continuing care, that makes removal of its funding a sensible way ahead.

I remind members of the committee that the petition that Marjorie McCance submitted is the second-biggest petition that has ever been received by the Parliament, with more than 100,000 signatures—the largest was submitted in relation to the proposed changes at the Queen Mother's hospital, which was a highly sensitive issue of which members will be well aware.

One of the issues that I and members across the political spectrum have highlighted is that what is

proposed amounts to a significant change in provision. Previously, the Cabinet Secretary for Health and Wellbeing has said that, in cases in which there is significant public concern about such significant changes, she will investigate whether the correct decision has been made. She has not done so yet in relation to St Margaret's, but we would like to keep up the pressure on the minister to be consistent in relation to St Margaret's, in light of, for example, the decisions that she made in relation to Monklands hospital and elsewhere.

We approached the issue on a genuinely cross-party basis in order to come up with a solution that was acceptable to the communities in Clydebank, the west of Glasgow, East Dunbartonshire and beyond, all of which believe that the approach that is being taken is wrong.

I will end on a point that I have not made before but which is important. When the health board initially considered the provision of continuing care, it did so in the context of the boundaries of Greater Glasgow Health Board. Since that time, the Clyde area has been added to the health board's area. In the context of that new area, there might be a degree of flexibility with regard to the necessary numbers that would enable the much-valued and important provision of care at St Margaret's to continue as it is. I am sure that that would satisfy and delight everyone who is involved in the issue.

**Bill Butler:** I think that a little more could be done before we close this petition. If the short-life working group had met on all of the occasions on which it had intended to, there might not be so much behind Des McNulty's suggestion on that particular element of the petition. However, given that it has not completed its work, we should continue the petition. We should ask when the short-life working group will complete its work and make its report. Once the report has been produced, we should consider what can be done with regard to what the petitioner has described as the inequitable or idiosyncratic funding of hospices.

On the proposals to remove 30 national health service continuing care beds that sit outside palliative care, it might be appropriate to write to the minister and to Robert Calderwood to say that all that the board of St Margaret's is asking for is a discussion with the health board in respect of that proposal. Des McNulty made an important point when he said that the health board area has been enlarged since the provision of continuing care was initially considered, which means that there might be some flexibility with regard to this proposal, which is causing a great deal of anxiety and concern to many.

On those bases, I think that we should continue the petition.

**John Wilson:** Des McNulty is right to say that there is cross-party support on this issue. Gil Paterson has also spoken to the committee about it. Both of those MSPs have advocated that the petition be supported.

I support Bill Butler's view that, as the short-life working group has not been able to have the discussions that we were promised five months ago that it would have, we should continue the petition until such time as those meetings have taken place and we get some feedback on the proposals that arise from those discussions.

16:45

Once again, I put on record my disappointment at Greater Glasgow and Clyde NHS Board's failure to take on board the public concern about an issue in which it is directly involved. It is not the first time that the committee has been critical of how the board has dealt with the decision-making process and shown total disregard for the views of families, relatives and others in relation to the impact of its decisions in vulnerable communities.

If we can get the short-life working group up and running, we can get feedback from it. However, as Bill Butler indicated, we should also express the committee's concern about Greater Glasgow and Clyde NHS Board's proceeding with a decision that, from the information that we have in front of us, it is not prepared to review. The strength of this committee is that we can once again challenge the board to tell us why it is continuing with the decision that has been made without full consideration of the arguments that St Margaret's hospice makes.

**Anne McLaughlin:** To be honest, I will probably just echo what Bill Butler and John Wilson have said but I sometimes fear that, if I do not do that repetition, the committee will forget that I am here.

**John Wilson:** Never, Anne.

**Anne McLaughlin:** Thanks, John.

The Scottish Government offered to meet the Scottish hospices forum—to discuss the funding formula, I presume—but the forum said that it did not want to do that until the short-life working group had met. Therefore, we should keep the petition open until the working group has met and reported and the Scottish hospices forum has had an opportunity to consider the report.

**The Convener:** We will keep it open and explore the two or three points that members raised. I hope that we will get some satisfaction. It is a long journey. I also thank Des McNulty for his continued support for the petition.

### **Free Public Transport (PE1107 and PE1174)**

**The Convener:** The next two petitions, PE1107 and PE1174, are grouped together. Both relate to free public transport for under-18s. We have had an opportunity to raise the matter on a number of occasions and have had responses back from the Government and the petitioners. I recommend that we close PE1107 on the basis that the petitioner has not submitted any communication to the committee for this or the previous occasion on which it considered the petition; the position is similar for PE1174.

Perhaps the high-school year group that was keen on the issue has moved on. The petitioners highlighted the issue, and there is continued discussion with ministers on extending programmes for access to public transport. Decisions on that will be taken in light of budget options and any commitments that are made.

I recommend that we close the petitions on those grounds but recognise that they represent young people who were trying to ensure that they could access public transport.

*Members indicated agreement.*

### **Tail Docking (PE1196 and PE1230)**

**The Convener:** The next two petitions, PE1196 and PE1230, are also grouped together. PE1196, by Michael Brander, calls on the Parliament to urge the Government to allow the tails of working dogs to be docked. PE1230, by Dr Colin Shedden, on behalf of the British Association for Shooting and Conservation, the Scottish Countryside Alliance, the Scottish Gamekeepers Association and the Scottish Rural Property and Business Association, calls for prophylactic tail docking of working dogs to be allowed under tightly specified circumstances—that sounds painful enough already.

Do committee members have any comments on the petitions?

**Nanette Milne:** We have been waiting for the publication of research that the University of Bristol is doing. As that is not yet forthcoming, there is not much that we can do now except suspend our consideration of the petitions again. However, perhaps we could write to the university asking for the likely timescale for publication. The research has been going on for a wee while now.

**The Convener:** I am happy to do that. We will suspend consideration of the petitions but will find out that further information.

*Members indicated agreement.*

### **General Practitioner Dispensing Practices (PE1220)**

**The Convener:** PE1220, by Alan Kennedy, calls on the Parliament to urge the Government to review the legislation to ensure that GP dispensing practices continue to operate in instances in which commercial pharmaceutical practices apply to operate in the same area. We have considered the petition previously, but we are still waiting for the relevant consultation paper to be published, so perhaps we could suspend our consideration of the petition and explore that issue with the Cabinet Secretary for Health and Wellbeing. Is that agreed?

*Members indicated agreement.*

### **St Andrew's Medal (PE1232)**

**The Convener:** PE1232 asks us to urge the Scottish Government to look into having a new national civic award. I know that the Government is carrying out a scoping study on the recognition of bravery in Scotland, so I suggest that we suspend our consideration of the petition until we see the conclusions of that work.

**John Wilson:** Could we write to the Scottish Government to ask when it expects the scoping exercise to be completed? I note that the response that we received states that the petitioner's proposal is under consideration, but it would be useful if we could get from the Government a completion date for its work.

**The Convener:** We will also ask whether members of the committee could be considered for such an award.

**John Wilson:** I know that you deserve one, convener.

**The Convener:** If the committee wishes to put my name forward, I would be delighted to receive its support, although that might be illegal under the new rules on honours—we will soon find out.

**Bill Butler:** We will visit you in prison.

**The Convener:** I will be adding to the prison stats again.

### **HM Prison Kilmarnock Contract (Independent Review) (PE1241)**

**The Convener:** PE1241, by William Buntain, calls on the Scottish Parliament to urge the Government to conduct an impartial and independent review of its contract with Kilmarnock Prison Services Ltd on the design, construction, financing and management of HM Prison Kilmarnock. Members have dealt with the petition previously, and I know that Margaret Mitchell, in particular, has expressed support for it, so I invite

her to make some brief comments.

**Margaret Mitchell (Central Scotland) (Con):** It has been a long day for the committee, so I will be brief.

Even though there has been a fair amount of correspondence with the Scottish Prison Service and other interested parties, there remain certain unresolved issues, including in relation to conflict of interests, on which there is no audit trail and a lack of transparency in accounting.

The disciplinary process is very much a live issue. I believe that what happened following an incident that took place this week at Kilmarnock sheriff court is analogous to the situation in the prison. After the union and Reliance had agreed on a course of action in relation to a custody and restraint incident—they had agreed that a debrief would be the best way forward—the SPS decided to suspend the member of staff in question, which means that their certificate is withheld and that they cannot work. It is a little disingenuous of the SPS to say that it does not determine employment matters when suspension of a certificate results in the employee losing their employment for a specified period. That issue is still unresolved, as are various physical training issues.

The financial penalties system should be looked at, given that we are 10 years into a 25-year contract. Key performance indicators that looked quite good 10 years ago might not be as robust as we thought they were. That certainly seems to be the view of the workforce at the prison. Rather than adding to performance and making the prison safer, they are detracting from it and affecting morale. The health and safety issue that arises from staff not being able to use PAVA spray is unresolved, too. It is worth pointing out that the normal process of contract management has still not resolved that issue.

For all those reasons, I hope that the committee will consider recommending the independent review that is supported by the Prison Officers Association Scotland, the Prison Service Union and the petitioner, and that it will look at the petitioner's other suggestion, that the Public Audit Committee should investigate the £2.1 million in financial penalties that has been withdrawn from Kilmarnock prison. Incidents such as the finding of a mobile phone attract penalty points; five penalty points could mean the withdrawal of £2,000. The Public Audit Committee would be able to establish an audit trail and provide some transparency and accountability as regards where that money has ended up. Those are the two points that I hope that the committee will consider taking action on.

**The Convener:** Do committee members have any other observations? We have been broadly supportive of exploring the issues that the

petitioner has raised and the points made by Margaret Mitchell. Can we take those together and perhaps also consider some of the issues that have been raised relating to the performance system, which Margaret touched on, the ways in which staff members are affected by the perverse criteria that are applied when contraband material is found, and so on?

**John Wilson:** I suggest that we write to the SPS about the response that we have received from Mike Ewart to Margaret Mitchell's question. His letter states that the SPS does not receive any financial gain. The question was whether

"SPS have received monies as a result of the penalties system".

Mike Ewart's response is that

"SPS have received no income from KPSL please refer to the response above 'financial penalties'."

There seems to be no clarification as far as I can see of the issue that I believe Margaret Mitchell mentioned about the £1.5 million clawback—the moneys that have been withheld from Kilmarnock prison. Can we seek clarification from Mike Ewart? If the SPS does not receive any moneys as part of the financial penalties system, where is that money going? There seems to be a contradiction: a financial penalties system is in place, but the chief executive of the Scottish Prison Service says that the SPS does not receive any moneys as part of that system. Who receives the penalties or fines that are imposed on the operators of the prison and where does the money go?

**The Convener:** We want to keep the petition open. I know that the petitioner has been patient all afternoon. We want to continue to pursue these matters; I hope that that will help.

**Margaret Mitchell:** On the issue that John Wilson mentioned, the money was withdrawn from the sum that would otherwise be given to Kilmarnock prison. The point is that we do not know where it goes. That is why it has been suggested that the Public Audit Committee could examine the issue to establish where the money has gone. We do not know whether it goes to the SPS indirectly or to some other organisation or budget, but it would be good to nail the conflict of interest issue by establishing the audit trail.

**Bill Butler:** It might be refreshing if, when we ask the SPS a specific question, we get a specific answer and not obfuscation.

**The Convener:** Do you want me to put that in the letter?

**Bill Butler:** Yes.

**The Convener:** Good.

**Bill Butler:** That is why I said it.

**The Convener:** Fergus Cochrane will need to check the dictionary, because he is looking puzzled at that one. Well done, Bill.

I thank Margaret Mitchell for her time. We will keep the petition open and pursue the issues.

**Margaret Mitchell:** I would like to be clear about whether the committee will go back to the SPS and ask for that information.

**The Convener:** Fergus Cochrane would like to comment.

**Fergus Cochrane:** I will have a chat with the clerks to the Public Audit Committee about any scope that that committee has to consider aspects of the petition, given that the Public Petitions Committee is not referring it.

**Margaret Mitchell:** Will that be resolved before the other aspects are looked at, such as the disciplinary issues, training and health and safety, which are the core of why an independent review is being sought?

**The Convener:** Yes. We will pursue the matters.

You have a worried look. What are you worried about?

**Margaret Mitchell:** Will the committee come back to look at the whole issue once it has been in contact with the SPS?

**The Convener:** Yes.

### **Sheltered Housing (Self-funded Tenants) (PE1245)**

**The Convener:** The final current petition is PE1245, by John Wood, which calls on the Parliament to urge the Government to consider how to ensure the continued independence of self-funded tenants of sheltered housing whose funds and savings have been eroded by increased costs, such as those through the supporting people programme.

The petition has been in front of us previously and we have not had a full response to all our points, so I think that members will want to continue our consideration of it. In a letter dated 16 November, the petitioner raises some specific issues. We could seek the Government's responses to the following questions: when self-funded tenants pay for the services of a manager through their normal housing association, why are charges also made for the service by the local authority; under what guidelines or statute are such charges being imposed; and why is it necessary for local authorities to be involved, since the tenants are housing association tenants rather than local authority tenants? We could perhaps explore those inconsistencies. I know that

the issue is one of how the funding packages are put together and that it is a matter of interpretation. We will keep the petition open and explore the specific issues that have been raised.

## **New Petitions (Notification)**

17:00

**The Convener:** Under item 5, do members agree to note all the new petitions that have been submitted? The petitions will be brought to the next appropriate committee meeting.

**Members indicated agreement.**

*Meeting closed at 17:00.*





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