



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 20 April 2010

Session 3

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**Tuesday 20 April 2010**

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# **PUBLIC PETITIONS COMMITTEE**

## **6<sup>th</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:**

Kenneth Burke (Residential Provision Parents Group)

Jacqueline Campbell (Residential Provision Parents Group)

Alex Fergusson (Galloway and Upper Nithsdale)

Trish Godman (West Renfrewshire) (Lab)

Christine Grahame (South of Scotland) (SNP)

Asid Khan

Kenny MacAskill (Edinburgh East and Musselburgh) (SNP)

Margo MacDonald (Lothians) (Ind)

Jamie McGrigor (Highlands and Islands) (Con)

Pauline McNeill (Glasgow Kelvin) (Lab)

Des McNulty (Clydebank and Milngavie) (Lab)

Margaret Mitchell (Central Scotland) (Con)

Gil Paterson (West of Scotland) (SNP)

Scott Robertson

Sybil Simpson (Residential Provision Parents Group)

Elizabeth Smith (Mid Scotland and Fife) (Con)

William Smith

Sandra White (Glasgow) (SNP)

### **CLERK TO THE COMMITTEE**

Fergus Cochrane

### **LOCATION**

Committee Room 1

# Scottish Parliament

## Public Petitions Committee

*Tuesday 20 April 2010*

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

### New Petitions

#### Youth Football (PE1319)

**The Convener (Mr Frank McAveety):** Good afternoon. Welcome to the sixth meeting in 2010 of the Scottish Parliament Public Petitions Committee. We have received one definite apology, from John Farquhar Munro, who still has an illness. I indicate to all members and to people in the public gallery that mobile phones and other electronic devices should be switched off, in case they interfere with the broadcasting system.

Item 1 on our agenda is consideration of new petitions. I point out to elected members that there are additional papers for each of the new and current petitions that are before us this afternoon. We will deal with those as we deal with each petition.

The first petition for consideration is PE1319, from Scott Robertson and William Smith, which calls on the Scottish Parliament to urge the Government to investigate the legal status and appropriateness of professional Scottish Football Association clubs entering into contracts with children under 16 years of age; the audit process and accountability of all public funds that are distributed by the SFA to its member clubs; the social, educational and psychological effects and legality of SFA member clubs prohibiting such children from participating in extra-curricular activity; and the appropriateness of so-called compensation payments between SFA clubs for the transfer of young players under the age of 16 years. The petition also calls on the Parliament to urge the Government to increase the educational target from two hours' curricular physical activity to four hours per week and to develop a long-term plan to provide quality artificial surfaces for training and playing football at all ages in all regions of Scotland.

We have received additional information and are aware that some of the issues that the petition raises are part of the on-going review that the SFA is due to publish shortly and of the continuing discussion that member clubs have with the SFA. I welcome both Scott Robertson and William Smith to the committee. Is it okay if I call William by his Sunday name today?

**William Smith:** Yes.

**The Convener:** A number of elected members have expressed an interest in the petition. I welcome the three members of the Scottish Parliament who are here to indicate their broad support for it. I invite opening comments from either William Smith or Scott Robertson.

**Scott Robertson:** Good afternoon. Steven Whittaker, Colin Nish, Kevin Thomson, Andy Driver, Kenny Miller, John Collins, Allan McGregor and Darren Fletcher—those are all local footballers who are national successes in our game. I ask the committee: does anyone know of a player who has successfully come through the youth initiative programme?

Willie and I are part of the real grass roots. We launched our petition on 27 January and also opened a website. Since then, we have had just under 6,000 visitors to the website from all over Scotland, and we have recorded 170 surveys, which contained 20 questions. I want to give you two or three statistics. Ninety-two per cent of those who replied said that young children should have the right to choose whether they play for their school or not; 82.6 per cent said that the youth initiative programme is not producing talented young players in this country; and 93 per cent said that funds from the Government—from the public purse—should be channelled into juvenile boys clubs or schools football and not given to the SFA or professional clubs.

Andy Roxburgh once famously said that recreational football sits at the very bottom of the football pyramid and, without it, the whole pyramid collapses. We want to redress the balance between the professional clubs and the real grass-roots game in Scotland.

**William Smith:** I have been in the voluntary sector for 45 years. In our opinion, the petition provides sufficient grounds for concern, particularly in relation to children's welfare and rights, to ask the committee to recommend to the Scottish Parliament that, with immediate effect, all future funding given directly or indirectly to the Scottish Football Association or its member clubs should be frozen until the Parliament is satisfied that it is receiving value for its money and that the funding is not in any way being used to the detriment of children's legal rights or social wellbeing.

Given the downward spiral of our national game at grass-roots, club, European and international level, the objectives set out almost 14 years ago, when the professional youth initiative was established, have clearly not been met. As such, it seems to us that the benefactors of the funding have failed in their obligation to the taxpayer. In their arrogance, the football authorities expect the taxpayer to continue to pour millions of pounds into private businesses without the SFA conceding

that the taxpayer is entitled to expect positive results and that independent assessment procedures should be in place for that purpose.

The professional youth initiative is so out of control that children's rights are of little or no concern. For example, should we not be concerned about children's safety and welfare when clubs are taking young children as far as Inverness and Aberdeen on return journeys on a Sunday just to play a non-competitive game of football? What implications are there for the child in terms of exhaustion and stress? The petition will highlight many more serious abuses of children's rights under the law in the contractual or registration procedures currently used by the SFA and its member clubs.

Thank you, convener.

**The Convener:** A number of elected members are here to give their comments and views. I invite Kenny MacAskill to start those comments.

**Kenny MacAskill (Edinburgh East and Musselburgh) (SNP):** By one of the quirks of fate, we are meeting today with the spectre of the resignation of the SFA chief executive hanging over us. I pay tribute to Gordon Smith—indeed, I was having a cup of coffee with two members of the SFA earlier today.

We must remember that there is a football family and that we are all on the same side, whether in the SFA, the Scottish Premier League, the Scottish Football League, youth or women's football. We need some mutual respect and understanding. As I said, I pay tribute to Gordon Smith and I also wish his successor, whoever he or she may be, all the best, but I echo what Scott and Willie said: the future success of Scottish football has to be bottom up and not top down. The role of the chief executive is vital to Scottish football, but the success of Scottish football in turning round what has been a steady decline over many years will come from the bottom up. The real praise must go to Scott Robertson and Willie Smith. I know the hours that Scott puts in in Musselburgh and elsewhere. He and Willie are two of many who, throughout the length and breadth of this country, give their time. All members will know numerous teams and clubs in their own constituencies where people do the same. They give their time and it costs them a lot of money because they receive no remuneration. They give their hearts and souls and often receive little gratitude. As a Parliament, we should acknowledge how important that is. Besides giving people the possibility of going on to be successful international footballers, such as those Scott listed, it also has the benefit of keeping kids out of trouble, making them healthier and keeping them on the straight and narrow. We owe a debt of gratitude to the real grass roots of football.

I support the petition because I recognise that there is a problem in Scotland. We have our difficulties, some of which have come about for proper reasons. We had to bring in Disclosure Scotland and that had an impact. It was not cost free, either financially or in the problems it caused for schools and boys clubs. However, everyone acknowledges that we have to have it. Equally, we all recognise that facilities—and that was the purpose of my discussion with the SFA today—are inadequate, not fit for purpose and, to some extent, shambolic. We must change that. It will not be quick or easy. We did not get into this overnight and we will not get out of it overnight. I support the direction of travel that Scott Robertson and Willie Smith propose and the template that they are setting, and I have no doubt that my view is shared by colleagues. We recognise that we must draw a line in the sand and ensure that we invest in the game of football. It is part of Scotland's psyche and soul. Equally, we must ensure that, as well as appointing a new chief executive, we build from the bottom up and support the grass-roots game, not simply on the basis that it is from the grass-roots game that the success of the national team will be built, but in order to promote community spirit, citizenship and all those matters.

Not everything can be delivered. There are financial constraints. The replication of Toryglen regional football centre is something that we aspire to, but in the current financial climate it is hard to see that happening. Nevertheless, I give my full support to travel in the direction of the real grass roots.

**The Convener:** I know that Trish Godman has raised this matter with the SFA in the past.

**Trish Godman (West Renfrewshire) (Lab):** Young guys should enjoy football. I know that they all want to be David Beckham or, dare I say, Henrik Larsson, and maybe their parents want that too, but they should be enjoying their football. They should be able to play in the kind of team that Willie Smith and Scott Robertson have or for their schools. I am concerned about two things. One is the contract under which some of these boys have been put and the way that they are moved about. It seems to me that that is manifestly wrong and that it cuts them off from playing football for their schools and from involvement and interaction with other kids in their schools. Every bit as important is the fact that the Government is giving money and that it is very difficult to get an audit trail of that money. Indeed, I am awaiting an answer from the minister about where the money has actually gone. I question children's rights under the law when children as young as 10 or 11 are being asked to sign contracts. I am not sure that that is legal. If it is, perhaps it is something that we should look at.

What Willie Smith said at the beginning is absolutely right. The only talent that we will get is from the bottom up. If we look back a few years at the footballers who were playing for Scotland—when it was an honour to play for Scotland, although it does not seem to be now—many of them were signed on S forms. I can understand young players being signed on S forms. It means they are given some tuition and help from a club but continue to play for their schools, are watched and eventually brought into the club system. That is a much more visible and easier way of doing things. I have deep concerns about the issues that both Scott Robertson and Willie Smith have raised. I hope that the Public Petitions Committee will be able to support what they are asking for.

14:15

**Des McNulty (Clydebank and Milngavie) (Lab):** I would like to highlight two particular issues of concern. One is that the contracts that have been signed appear to allow clubs to restrict the extent to which people under the age of 16—or indeed 17 or 18-year-olds—can move to play for a different team if that suits them. It seems to me that the best judge of whether a young player is enjoying his or her football is that young person themselves, along with their parents or other people who have their best interests at heart. It seems that the mechanisms of the contracts that prevent children from moving on for playing reasons, social reasons or other reasons are not in the best interests of the child.

The second issue, which underpins that, is that children are seen as assets that belong to a particular club and, to some extent, have a price on their head. They can move, but only provided that a bigger club is prepared to pay off the initial club to free up the contract. That is understandable in some highly specialised cases, such as Wayne Rooney or other very special players, but the extent to which it is happening is not in the interests of the young people involved or the interests of football more generally. Scott Robertson made a point about the number of players coming through the youth scheme and whether that is in the best interests of Scottish football. That is one consideration, but the most important consideration is the human rights of the child in those circumstances. Children should not be seen as the chattels or assets of any organisation, least of all a football club, that can buy and sell their services at the age of 16 or under.

The system does not have appropriate safeguards. Its principles are very much open to question. Its impact on individual children would not be tolerable in any other context. If we took the word “football” out and transposed the scenario

into another sport, activity or area of life, would we allow people’s rights to be signed away in that way? It requires only a moment’s consideration to say that that would not be allowed. I do not think that football can be a special case; we have to pay particular attention to the rights of the child and ensure that minors do not enter into contracts without appropriate legal advice or that they do not enter into contracts of any kind that fetter them as football teams’ assets. We need to change that situation.

**Nigel Don (North East Scotland) (SNP):** From what has been said so far I understand that there are two issues. The first is, to put it simply, the human rights of the children involved. Secondly, the petitioners talked about the amount of money that is going into football and where it is going. I invite you to confirm the sums of money involved, not because I think that it is the most important issue, but because it is the one on which I would like some clarity. I can give you a clue in that the data in front of me, which the Scottish Parliament information centre has kindly provided, suggest that something like £1.5 million goes to the SFA for youth development and something like £1.5 million a year seems to be cashback for communities. I look to the minister for confirmation of that. Are those sums of the right order of magnitude? Are other sums involved? I am just trying to understand the scale; I am not worried about getting the figures down to the last hundred thousand.

**Scott Robertson:** There was a parliamentary question on that. Over the past three years, the sums of money channelled either directly to the SFA or indirectly—through sportscotland or the Scottish Football Partnership—totalled just over £12.5 million.

**Nigel Don:** So, that is £4 million a year, which is marginally more than I have just described. Does that include cashback for communities?

**William Smith:** We believe so.

**Nigel Don:** Okay, so the sum that we are talking about is something like £4 million a year. Thank you. I just wanted to put that on the record.

**Bill Butler (Glasgow Anniesland) (Lab):** Good afternoon, gentlemen. I think that it was Mr Robertson who said that the Scottish youth football initiative is a failure. Can you tell me why it fails, in your view? What are the main reasons for its lack of success? If you had your way, how would you turn it round?

**Scott Robertson:** I will keep my comments brief. The magnitude of the system is one aspect. The system was put in place for the elite players in Scottish football. This season, 139 teams are operating in the youth initiative system. If every team registers its capacity of 20 players, that will

give us 2,780 young players. Do we really have 2,780 elite players in Scotland?

To break that down, one of the Edinburgh-based clubs has 120 players in its youth initiative system. We have to ask how much time it can dedicate to them. If the club had, say, only 40 players, it could surely focus on them and really start to identify talent. We seem to be harvesting young kids and putting as many as possible through the system to try to find the one gem.

**Bill Butler:** Mr Smith, would you like to add to that?

**William Smith:** Yes. Some time ago, this proud nation produced players for Manchester United, Arsenal and Liverpool—for the great English clubs. Even at that time, 20 or 30 years ago, clubs needed the transfer money to survive. The clubs now produce players of a quality for no more than the championship in England. That reflects the failure of the pro youth initiative. As far as I know, none of the top English clubs has a scout in Scotland any more. That says it all.

**Bill Butler:** I take your point. I remember when even the team that I support, Partick Thistle, produced Alex Forsyth for Manchester United and Alan Hansen for the BBC, and before that for Liverpool. [*Laughter.*] There were players across the board in the old first division, so I take your point.

You identified what you see as the problem—the harvesting of players, and too many young people being signed up to the initiative with no real prospect of progressing. How can we turn the initiative round and make it a success? Should we scrap it and start again?

**William Smith:** We must analyse how to deal with the problem. The first objective is to get the kids back to playing in an environment where they can develop naturally—playing with their friends in school football, or playing with Hillwood boys club or Musselburgh Windsor under 10s, 11s, 12s or 13s.

We have the ridiculous situation in which one child has signed a form for an SPL football club for four years. That is an illegal document. He is eight, and he has signed it. What is worse, his parent signed it as well. It is not even recognised by the SFA, although it is aware of the situation. It is not the first time that that has happened. Four or five years ago, I wrote to the SFA—I have a copy of the letter—to warn it about the use of T forms. The T stands for training. All clubs were written to and told that they would be brought before the SFA's general purposes committee if they were found to be using that document. Sadly, however, in its current structure, the general purposes committee is made up of the very clubs and people who are doing that.

You can see that, for us, it is like banging our heads against a brick wall. That child is not the only one. Many are signing contracts at seven or eight years of age. I have a copy of the form that I mentioned, and the convener should have a copy of it. That child is only eight and he has signed a document for four years, or so he thinks. The document is not recognised by the SFA, so technically speaking he has been deceived.

**Bill Butler:** Mr Robertson, do you want to add something?

**Scott Robertson:** You ask what I would do. For starters, I would scale back the numbers. We do not have nearly 3,000 elite young players in Scotland. If only. We dream of that. So we need to scale back the numbers. When we take those players in, whether they be eight or 12 or 13, we give them a false sense that they will be football players. I have been in schools football for 21 or 22 years, and kids of 12 or 13 in their first year at secondary school will say to the teacher, "Ah but, miss, it disnae really matter what happened at the battle of Hastings or if that is the chemical formula for water; I'm gonnae be a football player." Headteachers will tell you that that undermines what we are doing.

Holland has an entirely different scenario. If someone is not successful in attending and doing their studies, there is no football. I am keen—and I think that Willie Smith is the same—that we look after the whole child. The clubs are interested in that person only as an asset or football commodity. That is wrong. We want to look at the child as a whole. It is not good to take a nine, 10 or 11-year-old out of their natural environment. It is football, for goodness' sake. We play it because we enjoy it, and for the love of the game.

Back in 2004, John Gold wrote about the drop-out rate of 96 per cent because of the system. He wrote to one of the MSPs to say that we should leave the kids to enjoy their football, to have fun and build relationships with their friends, and get the clubs to come in and deliver the coaching locally. Why take one player from the east, one from the west, one from the central region, and put together a team that comes together only once a week and who barely know one another's names? That means putting the kids into a pressure situation. It is football; let them enjoy the game.

**Bill Butler:** I am obliged. Thank you.

**Robin Harper (Lothians) (Green):** I have listened to your presentation with interest and a great deal of concern. Scott Robertson said that the numbers need to be scaled back. Do you agree that some practices are so intolerable that scaling back is not all that needs to be done? Even if only 20 young people were involved in the initiative, things are happening that should not



happen to 20 brilliant young footballers no matter how much promise they show.

**Scott Robertson:** I agree with you. We have, in effect, 30 or 31 academies in Scotland. We are a nation of 5.5 million. If we look over the water at Holland, it has a population of 16 million, but only 12 academies, such as Ajax and FC Twente. Why do we have so many? Can we really monitor all the poor practice that is going on at so many academies? Yes, we want to identify talent, and we want that talent to be successful for the national team, but not at the risk of some of the activities that Mr McNulty has mentioned, and certainly not to the detriment of the thousands of young kids who will not make it as football players.

**Rhona Brankin (Midlothian) (Lab):** What you are striving to do is entirely laudable. I have concerns about the possible impacts on the young people, who have to be the centre of our concerns. The clubs are clearly highly competitive businesses and are at pains to protect their investment. We can recognise that but also think that that may run contrary to the rights of individual children. Where in the world has the best system? We have so many youth academies in Scotland because they are based at individual club level and, given the competitive nature of clubs, we might not know how to change that. Is there a model somewhere that protects young people's rights while also developing their potential and creating players for the future? What is that model, and how hard is it for us to begin to think about adopting it? What are the barriers to doing that?

14:30

**William Smith:** I know that we have referred to Holland several times. It is not the only country, but we will focus on it to give you an idea of the quality of the system there. In Holland, the club has shared objectives, which are in both its interest and the interest of the child. Holland is the perfect example.

We have a problem in this country. If a child signs a contract for one year, the club has a hold on that young player for a further two years. When a 15-year-old player concludes the contract that he signed, he cannot leave if the club will not let him go. All that the club has to do is drop a recorded delivery letter to him at the start of the following season and the season after that saying, "We are retaining you." A young guy who cannot get released from a club is heading down the road to disaster; at 16 or 17, he is heading for a perilous period in his life.

**Rhona Brankin:** Is that the case in Holland?

**William Smith:** No, sorry, that is the Scottish case. In Holland, if a player signs for a club for three years, the club has to commit itself to the

player for three years—he is in a contract that is equal. In Scotland, the contract means nothing on the club's side. The club can tear up the player's contract within a week, whether he likes it or not.

**Rhona Brankin:** Is the system the same south of the border? I have visited various youth academies, such as the one at Liverpool Football Club, which has had a very good reputation over the years and has produced players such as Michael Owen.

**William Smith:** To be fair, I am not familiar with the English system; I do not know whether Scott Robertson is. I do not think that it is that dissimilar to the one that operates in Scotland.

**John Wilson (Central Scotland) (SNP):** I have a question on the issue of the clubs signing these young people up. Is any money changing hands? Are payments being made by the clubs? When the parents sign off on these contracts, is some form of financial retainer being awarded for the signing of these forms?

**Scott Robertson:** No, it should not be.

**John Wilson:** It is a crucial point. I understand that money should not change hands to get these forms signed, but I also understand that in some cases it does. The difficulty is that, when it comes to under-16s, child labour laws apply. It is concerning that major clubs in Scotland are using a system that is equivalent to child labour and which would be outlawed by United Kingdom legislation. Can Scott Robertson or William Smith confirm that that is common practice and that clubs are, to their knowledge, using financial inducements to get young people to sign these documents?

**William Smith:** We have heard of such cases, but we have no concrete evidence to back that up. I would be grateful if the committee would consider the compensation payments that we know about. Compensation payments have been placed on children as young as 12. There is the case of one young lad in Dumbarton, Kieran Gibbons, whom Hamilton Academical will not release because nobody is willing to pay £9,000 for him. He has not kicked a ball since last May and he is only 14.

I believe that respected members of this Parliament wrote to the authorities and said, "Please do not raise the fee of £3,000 a year." They raised it to £5,000 a year, so it is now £15,000 for a player in similar circumstances, and they dropped the age at which it is applicable. We have compensation fees now. In my opinion, it does not matter whether you play for Rangers and sign for St Mirren or go from Inter Milan to Rangers or whatever, it is a transfer fee. "Compensation" is just a nice word, but it is a transfer fee. It is a scandal and we have to stop it.

**John Wilson:** That raises the question of clubs putting a price on the heads of young people who want to transfer to another club. Under child labour laws and employment legislation, no employer would be able to do that in any other aspect of society in the UK or Scotland.

There are clearly issues that we need to look at closely because the employment rights of children under the age of 16 rest with the local authorities. Under UK employment legislation, it is local authorities that are supposed to monitor the situation because they are the ones who give young people under the age of 16 permission to work. I will raise the role of local authorities later. Both witnesses have indicated that local authorities are concerned about how young people perceive their future career paths if they are signed up at the age of eight, nine or 10 thinking that they will go into football. As has been said, the drop-out rate of 96 per cent is substantial and reflects how a lot of young people's lives are destroyed because they have expectations that are never going to be met.

**Anne McLaughlin (Glasgow) (SNP):** John Wilson raises an important point that I was going to raise. At our previous committee meeting, we were at a school in Fife where the pupils spoke to a petition that highlighted the fact that child labour laws are not being adhered to. The issue is worth looking into.

I understand that you had a meeting with Tam Baillie, Scotland's Commissioner for Children and Young People. I know that you cannot speak for Mr Baillie, and I assume that the committee will write to him. Nevertheless, can you tell me anything about the meeting? What sort of things did you discuss?

**William Smith:** Generally, the meeting was very cordial. Tam Baillie was a good listener and understood the situation although, at that time, he would not commit himself to direct action. My gut feeling was that he was very sympathetic to what was going on. He told me, in parting, that he expected his involvement to be on the sidelines until the Parliament requested his view on the matter but that he would be more than willing to give it then. His predecessor—I cannot remember her name—

**Trish Godman:** It was Kathleen Marshall.

**William Smith:** Yes. She was concerned about the situation as well.

**Anne McLaughlin:** Okay. I expect that we will write to the children's commissioner. I just wanted to get an idea of what had been discussed at that meeting.

**William Smith:** It was a general discussion on the football side of things. I explained why we had

lodged a petition and tried to give Tam Baillie an understanding of everything that was going on. To be fair, he is a football man, so—

**Anne McLaughlin:** He is a man.

**William Smith:** Yes. He was aware of the serious issues that we are bringing to the Parliament today.

**Scott Robertson:** I want to touch on an issue that Rhona Brankin raised about the model that we have. Jim Fleeting and others at the SFA go round Europe and, indeed, I attended a forum in August. There are good models out there. Inter Milan has 100 feeder clubs, so the kids stay locally. In Holland, there is a restriction on how far a club can go to sign a player. Barcelona also has feeder clubs and it has a community spirit. Unlike its big rival, Real Madrid, which buys big players, Barcelona has a philosophy of bringing players up.

One of the problems with the SFA is the fact that Jim Fleeting or Neil McIntosh can go out, undertake studies, bring back best practice and make a good presentation to the board, but the board is made up of club members who have a vested interest and think, "That's great for Scottish football, but for my club? No. We're not releasing all our players." The board of the Dutch FA, the KNVB, is completely autonomous and none of its members is connected to clubs—they are looking after the welfare of their national game. In Scotland, we have given the lunatics the keys to the asylum, so to speak. There are too many vested interests in our game.

**The Convener:** We are trying to map our way through the petition, which has three or four different elements. Clearly, in broader terms, the plea to all parliamentarians on investment in facilities and the effective use of education and the curriculum will have to be dealt with by all of us through our discussions in the Parliament.

We have focused on two fundamental issues. One is the process issue of what happens to a young man or woman who is signed up. There is increasing participation by women in football, so professional opportunities will emerge in that regard for young women in Scotland as well as elsewhere. The second issue is the football initiative itself. I had ministerial responsibility for sport for a period, and the idea at that time was that we would deal with the governing body, because it is autonomous, to try to put together a structure that clubs at all levels would feel comfortable with. What has happened in the intervening years is that a number of substantial grass-roots clubs have felt that the initiative has not really connected with the way in which they see players developing. We all have opinions on models for development, and it is about how we get the best models. I have heard Jim Fleeting of

the SFA speak on a number of occasions about trying to increase the numbers who participate and how we identify individuals and take that through.

Two things that I found during that period and in subsequent years—I think that Scott Robertson touched on this in his final point—is that club academies, whether those of Hibs, Hearts, the old firm or any other club, are very protective of individual players or structures. He has given us two or three pointers about other models to look at. Equally, opportunities may emerge from the turbulence in the SFA because of the loss of its chief executive and the impending report from the former First Minister, Henry McLeish, which, according to reports at the weekend, will address areas on which Scott has expressed views. I wonder whether we can invite the former First Minister to come to a meeting of the committee to follow through on the issues in his report, once it is published.

People in the current Government and people who were in the previous one know how frustrating it is to try to navigate the SFA's structures, because none of us has the right blazers on. Scott Robertson, who is wearing a blazer, is at least halfway there. There is concern about who is talking on behalf of the organisation and whether they can carry the organisation with them. It strikes me that the dilemma that faces all of us as elected members is where to start. The SFA is quite a defensive organisation when it comes to these debates.

I am sorry that I have taken so long on this, but it strikes me that that is where we need to focus the petition in order to move things forward. I will finish on that, and invite Bill Butler and Trish Godman to speak, as I know that they are interested in the issue. We will try to pull together our final points after everyone has spoken.

**Bill Butler:** It seems to me, having listened to all the petitioners' and members' comments, that the issue is basically about the rights of young people versus the vested interests of private businesses. We need to progress the petition, which has a number of important aspects regarding facilities, education, how young people are treated, how the whole approach seems to be skewed to the interests of private businesses rather than the interests of young people, and the need to deliver coaching locally. The petitioners have rightly touched on all those and other, associated issues. In supporting the petition, we should ask the Scottish Government whether it will carry out the investigations that the petition asks for, especially with regard to the audit. We should talk, too, to the SFA, the SFL, the SPL, the Scottish Trades Union Congress and the children's commissioner, asking what their views are on the petition and the issues that we have

discussed today. Perhaps when we get that information back, the committee can consider inviting the former East Fife player and former First Minister, Henry McLeish, to come and give his views to the committee. However, I do not think that anybody would gainsay that we should support unreservedly action on the important and serious issues that the petition has raised.

14:45

**John Wilson:** I welcome Bill Butler's suggestions. Bearing in mind what Scott Robertson said earlier, I suggest that we also write to the Dutch football association. How we take forward youth development in football for the future of Scottish football, whether for boys or girls, is at the heart of the petition. We need to get an idea from the Dutch football association of how it progresses youth initiatives in Holland.

As I said earlier, we also need to write to a selection of local authorities—possibly Glasgow City Council, the City of Edinburgh Council and one or two smaller authorities—to find out the impact on young people in education who are signed up at a young age and whether those authorities monitor how those young people are treated. William Smith gave the example of young people being asked to travel 200 miles there and 200 miles back to play a knockabout game of football on a Sunday. That has an impact on them. I think that an employer would be allowed to employ such a person for only up to six hours on a Sunday. It can take children anything up to 12 hours to travel such distances. It might be worth while asking local authorities how they monitor what is happening and taking things forward from there.

**Rhona Brankin:** I agree with all the suggestions that have been made. Perhaps we should also get advice from a lawyer who specialises in children's law and children's rights.

**Trish Godman:** I was going to say what Bill Butler said. It is important that we get an audit trail from the Government; we are, after all, talking about public money.

I have had an interview with Tony Higgins of FIFPro. The good practice out there seems to suggest that, if a person does not attend to the academic side of things at school, they should not get a game—they should not be allowed to play. There should be a quid pro quo. I know that that happens in Holland and other places. People are not chosen to play if there has been an impact on their education.

I am a wee bit concerned. I understand what John Wilson said about work, but I wonder whether the way of getting round that is by saying that we are not talking about work. John Wilson

talked about local authorities giving permission for certain things. I am thinking of ways by which things can be got round. It would be good to bring in a lawyer who knows about children's law, and the children's commissioner, as I suspect that things can be got round.

**The Convener:** I am conscious of the time and that we need to consider other petitions.

**Nigel Don:** I am thinking about the people to whom we should write. I hope that the amateur game has its own grass-roots associations. I am not sure what they are, but I hope that the clerk will find out and that we will write to them as well.

We must be careful about the legal advice. This is not just about employment law; it is also about the restraint of trade and whether a minor can enter into a contract, money or no money, for example. We need specialist legal advice on a range of issues, and we need to throw matters wide open and not ask too pointed a question.

**The Convener:** As I said, I am conscious of the time. People have had many opportunities to speak.

Both petitioners are passionate about the issues involved, and the petition probably contains everything about football that they have ever felt cheated off about. I think that we are all worried and concerned, because we know how important the sport is for our self-confidence, general activity and enthusiasm.

We want to pull together all the responses. Obviously, there is an imminent report that will allude to some of the issues that the petitioners have raised. We will consider that in due course. We will maybe write to the former First Minister Henry McLeish to ask him to give us early sight of the report, as soon as it is published. The fact that it was discussed in the papers at the weekend suggests that that will happen pretty soon. When we have seen that report and we have the responses, the committee can return to the issue. The process will take time. To be fair to the individuals who are involved, we need to hear the views of clubs and the SFA and others in the process so that we get a sense of where they are coming from. We can then respond more appropriately.

I invite the petitioners to make any final comments.

**William Smith:** What I would like out of the work that we have put in is for any child who is under the age of 16 to have a get-out clause in any registration document, with 28 days' notice to the club. That is currently in the Scottish Youth Football Association rules. That proposal was put to Gordon Smith and the executive of the Scottish

Football Association, but it was rejected out of hand. That is my objective.

I have one final parting comment on the model and the player pathway. On the video that Mr Fleeting has released, he says that we have gone to Brazil, Germany and other places and taken a wee bit from there and we are making that the way forward. Try selling that to a bank as a business plan.

**The Convener:** You nearly had me believing that we are going to win the world cup. That was amazing. I thank both witnesses for the petition and for their time. We give a commitment that we will explore the issues that you have raised in the petition. You will be kept fully informed and up to date. The clerks are happy to receive any further information that relates to the petition with which you wish to furnish us. We are certainly keen to pursue the issues. I thank the members who have expressed an interest in the petition.

### **Dance (Schools and Colleges) (PE1322)**

**The Convener:** PE1322, by Jacqueline Campbell, on behalf of the residential provision parents group, calls on the Parliament to demonstrate how it will ensure the viability and future of dance teaching and coaching in schools and colleges across Scotland and through a national centre of excellence.

I welcome to the committee Jacqueline Campbell, Sybil Simpson and Kenneth Burke, and invite Jacqueline Campbell to make an opening statement.

**Jacqueline Campbell (Residential Provision Parents Group):** I have come here to speak to you as a parent, on behalf of the other parents who have children at the Dance School of Scotland, which was described by Donald Dewar as

"a shining jewel in the crown of Scottish education".

We are here today because the residence of the school is under threat. As a result of a change in the way in which national centres of excellence are funded, the money that is transferred from the Government is no longer protected. In our case, Glasgow City Council is considering reducing or even withdrawing the residential facility. That will have an impact on any child in Scotland who has the talent to gain entry to either the Dance School of Scotland or the music school at Douglas academy, whose pupils share the residence.

If there is no residential facility, the school will cease to be a national centre of excellence and will be accessible to only those few pupils who live within easy travelling distance of the school. The campaign is about safeguarding the future not only of the residence, but of the dance school itself.

The dance school faces two main challenges, the first of which is funding. Since 2007-08, we can no longer see the route that funding takes. We understand that the same money is still transferred to Glasgow City Council but it is now wrapped up in a local government agreement. As parents, we seek clarification. Does the Scottish Government still intend the funding to be used to maintain the school as Scotland's only national centre for dance and musical theatre? If so, how does the Government intend to ensure that funding is protected so it is used for that purpose and is not diverted to other local priorities?

The important issue is that Dalrymple hall, the current residence, provides accommodation for 90 pupils who come from all regions of Scotland. In other words, the catchment area for the dance school is national, not local, and the issue therefore affects all of your constituents, not just residents of Glasgow.

The school's location in Glasgow dates back to the Cameron report of 1975, which recognised the need for a national school that would specialise in teaching children who were talented in music and dance. Since then, the Dance School of Scotland has consistently attracted the most talented young people in Scotland, as well as an outstanding full-time teaching staff, guest teachers and choreographers from around the world. The school is aspirational. Its existence in Scotland increases the standard of dance and musical theatre training and creates a real desire among young people throughout Scotland to be part of its success.

We realise that local authorities are operating within decreasing budgets and that difficult choices have to be made. We believe that there are many reasons why the Dance School of Scotland deserves your help in overcoming the challenges that it faces. First, the school is a unique example of Scottish educational diversity and egalitarianism. The children come from a wide range of social backgrounds. There are and have been examples of pupils who have been taken out of areas of economic deprivation and nurtured and trained by the school. Secondly, unlike the situation when other schools close, there is no replacement institution for the pupils to go to elsewhere in Scotland. There is only one centre of excellence because there is a finite number of young people with the talent to gain entry. Thirdly, the Dance School of Scotland has an almost 100 per cent success rate with regard to the ability of pupils to enter their chosen careers. In the public gallery behind me is Hayley Stobo, a dance pupil who has just become the first Scot to gain a place at the Bolshoi academy in Russia. Also there is Marcus Crawford Guy, a musical theatre pupil who has gained a place at the prestigious Juilliard School in New York. Every year, pupils at the Dance School of Scotland have gained

scholarships and employment in the most highly regarded dance schools, theatre schools and dance and musical theatre companies throughout the UK and around the world. These young people are fantastic ambassadors for Scotland, and take with them a clear message that Scotland invests in its young people and in training in the arts.

The second challenge that the Dance School of Scotland faces is the availability of suitable accommodation. As you are already aware from your background reading, the University of Glasgow, the owner of Dalrymple hall, wishes to sell the building. A timescale to find a replacement is desperately short. Representatives from Glasgow City Council have told us that there are no other suitable accommodation options available.

15:00

Our opinion is that, if funding were guaranteed and protected over a period of time—for example, 20 years—a mortgage could be sought for either the purchase of Dalrymple hall or the building of a new residential facility. If, for whatever reason, the purchase of Dalrymple hall is not feasible, the idea of a purpose-built facility has been mooted. Glasgow City Council says that the cost of a new build at the present time is prohibitive. However, we believe that a partnership with a private company could be negotiated to fund a new build in a similar model to the type of student accommodation provision that many of our universities have developed in recent years. If there were to be a new build in the grounds of Knightswood, it would open up the possibility of using the accommodation and facilities for dance and musical theatre conferences and/or Easter and summer schools. That could generate revenue for the school, as well as helping to further promote dance and musical theatre in Scotland.

Finally, I remind you of some of the things that you have discussed in terms of education since the inception of this Parliament. You said that

“Access and excellence are the key hallmarks of Scottish Education.”

You have talked of the need for inclusion and equality, of the need to develop children who become responsible citizens, of the need for school pupils to be active and of your wish to ensure the

“attainment and achievement of children and young people in Scotland.”

The Dance School of Scotland is a unique educational institution that meets the standards that you strive for, develops the model citizens that you seek to produce, and ticks every box in your curriculum for excellence. It is now under serious

threat. Please help us to safeguard the dreams and aspirations of this generation and future generations of Scotland's talented youngsters.

**The Convener:** Thanks for that. I will invite members to ask questions, and you, Sybil Simpson or Kenneth Burke can come in at any time—I know that Sybil knows the format from a previous occasion.

Bill Butler is the local member for the Dance School of Scotland.

**Bill Butler:** I always try to remain objective when dealing with petitions, but I will not even pretend to be objective today.

I welcome the petitioners and the parents and students of the Dance School of Scotland who are with us to hear this discussion—the students all have permission to be away from school today.

The petition is important, because, as Jacqueline Campbell said, the Dance School of Scotland is a Scottish success story and has been since 1983. It is imperative that the Parliament—through this committee—local government and the national Government support and maintain it.

I am the local member for the building, but I am not the constituency member for anyone who is in the residence. That is because it is a national centre of excellence. However, since 2000, it has been my pleasure and privilege to represent the Dance School of Scotland at Knightswood secondary.

Jacqueline Campbell mentioned that Donald Dewar said that the school was

“a shining jewel in the crown of Scottish education”.

He was right to say so, and perhaps Sybil Simpson can say something about how Donald Dewar stepped in to save the school in the late 1990s.

The Dance School of Scotland is a marvellous establishment, where special talents are cultivated. I want to pay tribute to the commitment, dedication and hard work of the parents and the residential provision parents group—that is the new name that has been invented; I used to know them as the DSS support group. I have met the sub-group and, about a month ago, I had the pleasure of meeting about 100 parents and students. I have also had initial constructive dialogue on the matter with Glasgow City Council.

I should say that this is one of the best-supported petitions that we have received. I believe that way more than 14,000 people have signed it. Is that correct?

**Jacqueline Campbell:** The current count—which we did in the cafe in the shopping centre—is 14,321 signatures. It is worth mentioning that the

signatories include Dame Judi Dench, Arlene Phillips, Karen Hardy and various other celebrities who did not even need to be asked to support the petition, so strongly did they feel about it, as people who have seen the product from the school in the past.

**Bill Butler:** Indeed. I have a question for Sybil Simpson—I had better ask a question, as that is what I am supposed to be doing at this stage. Could you tell the committee what you, as the former headteacher of Knightswood secondary and the Dance School of Scotland, feel is special about the dance school? Why must we do everything in our power to ensure that its residential provision is kept so that it remains a national centre of excellence?

**Sybil Simpson (Residential Provision Parents Group):** We have had pupils from as far north as Shetland and as far south as the Borders. Anyone who spent just two or three hours in the dance school would see the dedication and the commitment that the young people give to furthering their careers and would realise that they are a very special bunch of pupils. They are driven—they are going to be on the stage. I always remember interviewing a little boy, who was 11 years of age. When I asked him why he wanted to dance, he said, “I am going to be better than Rudolf Nureyev.” That illustrates the commitment and drive of the children. They spend all their time working towards their careers.

If one goes down to London and picks up the programme in any theatre, one will see the phrase, “Trained in the Dance School of Scotland.” I have seen it on programmes in theatres in Australia and America. We are talking about children who know precisely what they want to do from a young age. They have been picked out. In that regard, I was interested to listen to the evidence on the football petition. Quite honestly, they are especially gifted children. The dance school is very picky. It ensures that the pupils who are admitted are people who will have a career on stage. Therefore, we must ensure that the school does not just disappear because of a concordat arrangement.

I know that Kenny Burke will agree with me when I say that we are a nation of 5 million people, in which there is only a limited amount of talent. In that regard, I echo the words of the footballing petitioner. The dance school focuses on children with talent, nurtures them, shows them excellence and puts them right up there among the best. We have produced many principal dancers all over the world, so it is important that we keep the school alive.

**Bill Butler:** My final question is for Kenneth Burke. Do you agree with Sybil Simpson?

**Kenneth Burke (Residential Provision Parents Group):** Absolutely. We have kids in all parts of the dance sector. I am talking about not just the top-end companies, from the Scottish Dance Theatre in Dundee to Covent Garden in London, but trade shows, theatres and everything in between. Some of them stop dancing and go into the commercial side of the business. They might do marketing, for example, but they stay in the business. The success rate is 100 per cent. They are still in dance because they are committed to it.

**Bill Butler:** I am obliged.

**The Convener:** I know that Trish Godman has expressed an interest in the petition, so we will hear from her before we hear from other members of the committee.

**Trish Godman:** I have a constituent from the school here—Marcus Crawford Guy. I met him today. He is going to New York, but he needs £20,000, so any donations would be welcome.

**The Convener:** Thank you, Trish—well done.

**Trish Godman:** I have a hat, which I will pass round.

Sybil Simpson was right to mention the concordat, which means that money for the school is not ring fenced, so individual councils will make up their own minds. I am the only member present who has a constituent at the school. It seems to me that it is a national school. Although it is based in Glasgow, it is a national school, so consideration should be given to central funding. Too often, we read about children who do not appear to want to be responsible adults. We have with us a group of highly dedicated people—I can see that from the fact that they have sat so well behaved, listening to evidence on the football petition. Every time one looks at them, they give a lovely smile and they are extremely welcoming. They are the kind of kids whom we want to see all around us. I think that funding should come from central Government.

I am not a member of the committee, but a representative of the Government should come here to tell you whether or not that is a possibility. If you resolve the matter this year, you will have the petitioners back this time next year, because next year they will look for individual local authorities to fund pupils to go there and it will not happen. As has been said, the school is an asset to Scotland all around the world. We should support that asset.

**Rhona Brankin:** Bill Butler started by saying that he did not intend to be objective. I intend to be severely objective. Strictly objectively, the school is of the highest quality. It has been demonstrated that it is successful and that its young people go

on to have successful careers in a range of areas. The school is high achieving and, importantly, is a national school. Having lived in the Highlands of Scotland for 25 years, I know how important that is. If youngsters have the talent—that is the key point—they can go to the school, no matter who they are or where they come from.

The issue of residential accommodation is central. I have much sympathy with Trish Godman's comments. We have national companies, such as Scottish Ballet, Scottish Opera and the Royal Scottish National Orchestra. In this instance, there is a case for some sort of national funding agreement to be secured. That would give the school a more long-term, sustainable future and, in a sense, take it out of the arena of local government settlements at a time when those are difficult and will be so for the next few years. That is not to say that the school must not tighten its belt in the current economic climate, in the same way as everyone must do. However, such an arrangement would give it a degree of secure funding into the future, as the youngsters concerned take many years to train.

Completely objectively, I say that the committee should take forward the petition and seek reassurance from the Government that it is not prepared to see the school close and is prepared to commit to a long-term sustainable future.

**Anne McLaughlin:** I whole-heartedly support your efforts. What kind of nation would we be if we lost the school? Most people agree that we cannot lose it—at issue is how we go about saving it and securing its long-term future. The situation has come about not because of the concordat, but because the University of Glasgow is selling the residence, which makes all the difference. If we cannot just transfer to another building, there are other funding implications, as has been said. However, we must do everything possible and work together to save the school.

A big issue for me is the way in which we do not enable children in the west of Scotland—probably, the whole of Scotland—to express themselves creatively. Traditionally, we do not encourage that. As a graduate of the Royal Scottish Academy of Music and Drama, I know how significantly being able to express yourself creatively can change your personal confidence. Incidentally, when I came in today, I spotted the dancers right away, before I even saw the uniform, because they are all sitting up ever so straight and looking terribly well groomed. I am feeling very inadequate—thank you for that.

Sybil Simpson said that the children are driven. She pointed out that a relatively small number of children attend the school and that they are the best and most talented dancers we have. However, it is not just about them. Having dancers

who are successful Scottish role models encourages other children in Scotland to dance. As Trish Godman said in relation to football, it is not always about making of a career of something—it is about all the other benefits, including being able to express yourself creatively. As the petition points out,

“Regular dancing will reduce the risk of cardiovascular disease, high blood pressure, type 2 diabetes and cancer.”

We need strong Scottish role models who, as you said, stay in the business. The children here today will become role models for other children in Scotland, who will then become far more likely to participate in dance and other such activities. We cannot lose that, and we cannot lose sight of the fact that the school is important for not just its current pupils but the whole of Scotland.

Convener, I do not have any questions, but I want to congratulate Hayley Stobo, Marcus Crawford Guy and all those who are involved in the school. I was quite impressed to hear about their successes. Well done.

15:15

**Robin Harper:** My views are very similar to those of Anne McLaughlin.

All too often in education, the arts suffer first whenever there is a contraction in the funds available. Art, music, drama and dance are almost always the first things that people consider cutting. However, those are actually the last things that should be cut, because they provide an essential part of the social fabric and wellbeing of our country. All the young people who attend the school will contribute to the wellbeing of the country and to our social fabric throughout their lives. That is terribly important. It would be very bad for our country to lose the contribution that they can make if this wonderful school was to suffer any cutbacks.

I thank the petitioners for their wonderful and persuasive presentation, although I do not need much persuading where dance and the arts are concerned. I want to express as forcefully as I can my support for the case that they have brought to the committee.

**The Convener:** I do not know whether Sybil Simpson, Jacqueline Campbell or Kenneth Burke will be able to answer this, but it seems to me that the situation involves both the University of Glasgow and the funding arrangements for the school. It strikes me as frustrating that one of our oldest universities, our biggest city council and the Government cannot join in partnership. From their experience inside the system, do the petitioners have any suggestions that we could explore with the appropriate organisations if we got them around the table? I know that the local member

has also endeavoured to do that, but it might be helpful if our committee added its efforts to that. It would be useful to hear people's views on that. The committee is not disinclined to recognise the value and virtue of having a strategy for dance in Scotland, in which the school plays a pre-eminent part. How do we sort the issue that has emerged in the past year or so?

**Sybil Simpson:** The Dance School of Scotland has always leased its residence from the University of Glasgow. We were previously in Pirnie hall and then in St Andrew's College of Education. I must admit that, when we left St Andrew's College, I said that that was the time to buy a residence but, because the university had been such a good landlord, Glasgow City Council said that we should continue to lease.

If we want permanence and if we want the school to continue, I think that the time has now come to get a building that is owned by Glasgow City Council, rather than one that is leased. I do not know how we would go about that, but perhaps some kind of mortgage could be taken out over 30 years if we have guaranteed revenue funding from the Scottish Parliament each year. I am aware that times are difficult and that local authorities need to cut back drastically, but I am sure that if the residence was set up as a trust—I am involved in a trust myself—we would have the benefit of access to other trusts for supplementary money. All that I am saying is that, if there is a will to ensure that the school continues to be available for Scottish children, we can find a way. Personally, I think that the time has now come for a residence to be bought so that we are not at the behest of landlords.

I do not know whether that is helpful.

**The Convener:** The situation is similar to that faced by the Scottish Youth Theatre a number of years back, but it had an asset base in the shape of the Athenaeum building and benefited from a development opportunity with, I think, Persimmon. As a result, it was able to put together a package in the knowledge that there was consistency through Government funding and partnerships with other local authorities. I have to say, though, that the size of—and therefore the contribution from—the various authorities varied dramatically from big to quite small.

Perhaps we should get a sense of some of that into the debate. I realise that the Government and the council face difficulties as they consider various budget options, and the question is who will take the first step. As with Scottish country dancing at school, though, no one is going step out first; however, if you all start at broadly the same time, you do not get so nervous about doing it. Incidentally, that is probably why I was never recruited for the dance school. Those issues need



to be addressed and perhaps Bill Butler can explore how we might take some of this forward.

**Bill Butler:** The petitioners' presentation was excellent. The objective is to ensure that there is adequate residential provision in order to maintain the national centre of excellence that is the Dance School of Scotland. I know that the petitioners, parents and students are most willing to have talks and to co-operate with local and national Government and we need that kind of co-operative approach to be able to put together a viable and sustainable medium to long-term strategy for not only the Dance School of Scotland but the other five national centres of excellence. Not being able to track the money is a problem; however, let us put that to one side for now.

Given the need to achieve adequate residential provision, we have to ask the Scottish Government and local government a number of questions. First, as a nice general introduction, we should ask the Government how it intends to ensure the viability and future of dance teaching and coaching through national centres of excellence. We must also ask about its involvement in the on-going consideration of the residential arrangements at the existing Dance School of Scotland. For example, has it talked to Glasgow City Council? Is it indeed willing to enter into negotiations and talks with the council, the parents and the students? As I say, adequate residential provision is the only way to maintain the Dance School of Scotland as a national centre of excellence. Finally, we might as well ask the Government whether it will provide one-off funding for new residential provision.

As for Glasgow City Council, although I have a meeting with the new convener of education in about a month's time, it would be good if in the meantime the committee asked the council about the outcome of the informal consultation with stakeholders—of which I was one—that has just been concluded. Has it made representations to the Scottish Government for funding to help finance, say, a new residential block at the dance school and, if not, is it willing to do so? If it is not happy with that suggestion, is it willing to look at the myriad other suggestions for ensuring residential provision? Finally, has it made representations to other local authorities, which, after all, send students to the Dance School of Scotland, to find out how in co-operation we can ensure that this Scottish success story has another 27 successful years? That would be a good way of kicking off, convener.

**The Convener:** Those comments were quite helpful. Do members have any other points to raise?

**Nigel Don:** I have not said anything up to now, but I must congratulate the petitioners on

submitting this extremely important petition. As everything that needs to be said has already been said, I have no particular questions to ask.

I would, however, expand Bill Butler's comment that there are six national centres of excellence in Scotland, one of which—a music school—is located in Dyce academy just down the road from me. I wonder whether we should ask the Scottish Government about all the schools, because it seems to me that the absence of ring fencing is as much an issue for them as it is for the Dance School of Scotland. Perhaps these centres of excellence should be exempted from ring fencing, although I realise that such a move would have implications that would have to be worked through.

**Bill Butler:** Perhaps we should also write to RSAMD and the Convention of Scottish Local Authorities.

**John Wilson:** Like Nigel Don, I did not ask the petitioners any questions because I felt that the presentation spoke for itself about the issues that have to be addressed and the work that is being done. We need centres of excellence in Scotland to support and develop all forms of talent and export them wherever they need to go.

With regard to a relevant point made by Sybil Simpson, we should ask the Scottish Government, Glasgow City Council and the Scottish Arts Council whether a trust could be set up to address the accommodation issue and what long-term support or commitment they can give to the school to allow it to negotiate with the banks or whoever else with regard to the possibility of taking out a mortgage or loan to purchase premises for accommodation. As other members have pointed out, without accommodation, the school simply cannot operate as a national centre of excellence because the students who are able to attend will be restricted to a small geographical area. The accommodation issue is crucial to the debate and, as I say, we need to ask those three agencies how they intend to support the provision of accommodation to allow this centre of excellence to continue and to work with parents and others to set up a trust that would, as Sybil Simpson said, be able to draw down other resources that, unfortunately, it cannot access at the moment. That might be a way forward and provide the school with continuity and security for ever more.

**Sybil Simpson:** I point out that the Dance School of Scotland is not the only centre of excellence affected. We must not forget that the residence is also used by Douglas academy, which produces some of the most wonderful musicians.

**The Convener:** Well, that is a positive note to end on. [*Laughter.*] Sorry about that—I try to lever them in when I can.

The petitioners will sense from our comments that we want to help where we can. Although the issue is most appropriately dealt with at local and national Government level, we will explore a number of issues and endeavour, as I say, to help where we can with the petition. On behalf of the committee, I wish all the youngsters who made it to the meeting this afternoon and all those who could not the best in their future careers in dance and performance. I thank everyone for their time.

We will have a short break.

15:28

*Meeting suspended.*

15:33

*On resuming—*

### **Trade Missions (Israel) (PE1308)**

**The Convener:** PE1308, from Asid Khan, calls on the Scottish Parliament to urge the Government to review its policy with respect to trade missions or trade initiatives by publicly funded bodies to Israel and to direct or influence Scottish Development International to end any on-going initiatives with Israel.

I welcome Asid Khan to this afternoon's meeting. It has already been a long one so I thank him for his patience. A number of elected members have expressed an interest in the petition. I invite the petitioner to make some opening remarks.

**Asid Khan:** I am the lead petitioner. In the past, Scotland has had a good record on standing up for human rights, and I am proud that Scottish ministers raised China's poor human rights record at the Beijing Olympics.

I am here to represent hundreds of people in my community, including professionals, businesspeople, academics, students and religious scholars, who are angered by the fact that, with Scottish taxpayers' money, Scotland's key international trade organisation led a mission to Israel that gave the impression that Scotland is willing to have normal relations with Israel. It was only in 2009 that this Scottish Parliament unanimously agreed to a motion about the humanitarian crisis in Gaza, and many churches and mosques supported a convoy of medical goods from Scotland. Scottish Development International is a key international agency and should have taken into account the decision made by Parliament in January 2009 about the humanitarian crisis in Gaza. However, SDI ignored Parliament and public opinion, stating in a letter that no restrictions were in place. By visiting Israel, SDI has endorsed Israel's illegal actions—nothing in relation to Israel should be seen as neutral.

Is the respectable committee aware that while we seek to increase trade with Israel, that country has been denying Palestinians the right of movement, access to health care and the ability to seek jobs, open businesses and trade with the outside world? To add insult to injury, Israel is using illegally occupied territories for its economic and social benefit. We would not condone that behaviour towards a minority population in any other part of the world.

There are 85 United Nations resolutions against Israel and none has been complied with. In Gaza, Israel has built the world's largest prison camp to imprison the people of Gaza. Using checkpoints on illegally occupied Palestinian land and an illegal 25ft apartheid wall, Israel has created a matrix of control, which means that the daily lives of Palestinians are unbearable. Israel's breach of human rights and violation of international law could not be more acute than they are now. Even its relations with the United States have become strained over the 1,500 new houses that it is building illegally in occupied east Jerusalem. That demonstrates to the world that Israel is not taking peace negotiations seriously.

The other petitioners and I want no part in normalising relations with any aspect of Israel, and we call on MSPs and Government ministers to put in place policies and a framework to prevent future trade delegations from going to Israel. What benefit is there really for Scotland? What was achieved for the sake of acute embarrassment for the country, with the unfortunate signal given to Israel that we do not care how it behaves and will still do business with it?

I have four requests for the committee today. First, will it ask for a full report on the SDI trip—who was met and what was achieved? Secondly, will it ask the Government to put in place a framework and guidelines for delegations when dealing with Israel or any other countries with appalling human rights records? Thirdly, will the committee ask the First Minister to explain why he did not intervene on that occasion? Fourthly, it might be worth while to write to the Scottish Trades Union Congress for a view on boycotting and a divestment campaign.

**The Convener:** Thanks very much. Elected members have expressed an interest in the petition; I invite Pauline McNeill to speak.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I strongly support PE1308. Many members, including me, wrote to SDI to get it to explain why its trip was so pressing. The answers that we received have been unsatisfactory, so it is important that the committee pursues the matter. It is not clear to me why our relationship with Israel was so important in the first place that we had to

send a public agency to do some sort of life sciences exchange.

We have debated the subject many times before. Members might be aware of the most recent events in the West Bank where Israel plans to remove Palestinians forcibly from east Jerusalem to Gaza. That demonstrates that there is no real interest in the peace process, which has come to a virtual halt. We also hear that 1,500 homes are being built in the illegally occupied part of the West Bank.

It is important that members of this Parliament express their view that it is unsatisfactory for us to be seen to normalise relations with Israel. In response, both the First Minister and SDI have said that the trip was non-political, but I cannot see it in any other way given the participation of the Scottish agency that is supposed to develop our relationships and trade around the world. The timing of the trip should be noted—it took place virtually a year to the day after the bombing of Gaza. I was absolutely astonished by SDI's insensitivity in not realising—or caring, it would seem—that it made its trip virtually on the anniversary of the day when 1,500 people died after the bombing of Gaza.

I know that the issue is tricky for the committee because it is about the role of a devolved Parliament in relation to trade. However, like the petitioners, I urge the committee to get a full report of what the trip was about and what benefit there was to Scotland. It is legitimate for us to comment on the trip. I for one am embarrassed by it. I do not want us to normalise our relationship with a state that has broken hundreds of UN resolutions and which does not seem to listen to reason. I hope that the committee uses its role to try to do something.

**Sandra White (Glasgow) (SNP):** Thank you for allowing us to speak to the petition, convener. I concur fully with what the petitioner and my colleague, Pauline McNeill, have said. You must remember that the trade mission was set to go in 2009 but we were told that, because of the bombing of Gaza in which 1,500 people, including women and children, were killed by Israeli bombs, it had to be postponed until another year. No sensitivity whatever was shown.

Like Pauline McNeill, I have numerous questions—I have two or three pages of them—on which I will concentrate my remarks. I have had meetings with Scottish Enterprise, but I have not been told exactly why the trip went ahead or to whose benefit it was. When I asked in a parliamentary question what companies went, I was told:

“The names of the companies participating in the mission is not in the public domain because of the commercially sensitive nature of this information.” —

[*Official Report, Written Answers*, 26 January 2010; S3W-30792.]

I call for a full report that includes the names of all the companies that went.

I asked Scottish Enterprise, as the body responsible for SDI, how trade missions are carried out and who instigated this one, but I never got an answer to that. Was it instigated by companies that approached Scottish Enterprise and SDI because they wanted a trade mission to Israel, or did Israel invite SDI? We do not know. We need to find out exactly what happened. Considering the fact that the trip was supposedly planned in 2008-09, I find it unacceptable that we cannot be given any information on who participated in it. The clerks or the convener will let me know if I am wrong, but I was under the impression that international trade missions were reserved, not devolved. I would like to know on whose authority SDI went ahead with the trade mission. Those questions need to be asked.

The STUC has been mentioned. I will quote from a press release—it is not from the STUC—that gives an idea of how other countries approach the issue. We are told that in Norway

“The Ministry of Finance has excluded the Israeli company Elbit Systems Ltd. from the Government Pension Fund”

on the recommendation of the Norwegian Council on Ethics. Basically, Norway could not deal with that Israeli company because of its involvement in the building of the separation barrier in Palestine. That is something that we should consider.

It is up to the committee to decide, but I would like answers to the following questions. Are such trade missions reserved? On whose authority did this one go ahead? Which companies took part in it? How does SDI carry out such trade missions? Who approaches SDI about them, and who gives consent for them? I would also like a full minute of what happened, where the companies went and what benefit Scotland got out of it.

**The Convener:** I am conscious of the time, but I would like to get as many points from members as possible.

**Robin Harper:** Like Sandra White, I am concerned that SDI has used commercial confidentiality to hide the names of the companies that have been subsidised with public money to go on a trade mission to Israel. Is there any sense that companies such as BAE Systems might be helping the Israelis in the production of arms or in ancillary industries that could help them in their subjection of the Palestinian population and the Palestinian state? Is there any hint that that could be part of it?

**Sandra White:** I asked about a specific health care provider that I was told had been on the trade

mission, but I did not get an answer. I do not know what type of health care it was supposed to be providing, but it was certainly not providing it to the Palestinians or Gazans. All that we can do is surmise, as we do not know the truth. We need to get answers.

**Robin Harper:** I should have declared an interest as a member of the cross-party group on Palestine.

To your knowledge, has there ever been any trade mission to Gaza or the West Bank?

**Sandra White:** No.

**Pauline McNeill:** Only humanitarian missions.

**Anne McLaughlin:** To pick up on what Sandra White said, does Asid Khan know the answer to the question on trading restrictions? Jim Mather's answer to a parliamentary question asked on 20 January contains the phrase:

"As there are no restrictions in place as regards trading with Israel".—[*Official Report, Written Answers*, 3 February 2010; S3W-30948.]

The fact that we have not seen anything asking the Scottish Government to put restrictions on such trading leads me to believe that it is a reserved issue.

15:45

**Asid Khan:** I am not aware of any restrictions. I know that Alex Salmond said on "Question Time" once that Britain should re-examine trading with Israel, but I do not think that he has ever got round to doing that. Now is as good a time as any. As Pauline McNeill said, the infiltrator law was announced recently. I think that the law has been changed so that people who are not born in the West Bank—Palestinians and the like—will get deported. I think that Israel was looking to deport thousands and thousands of Palestinians within a week. Similarly, it is building 1,500 extra illegal houses in east Jerusalem. It is worth re-examining the regulations now. If there is no policy in place, one should be put in place.

**Anne McLaughlin:** I was really trying to find out who would have to put restrictions in place. Would it be Britain? Obviously, I think that Scotland should have the power to decide everything, but at the moment we are restricted.

**Asid Khan:** I am not fully aware of how you work as a committee, but I expect that that is something that you guys would look into and deal with and that you would perhaps offer your suggestions to the First Minister and the Government.

**Anne McLaughlin:** I suspect that the issue is reserved. I am not asking the question for any

reason other than to get information, so that we know where to go.

Sandra White talked about Norway removing an Israeli company from its pension scheme. Are we largely alone in this or are other European countries continuing to trade with Israel? Do we stand out? I do not think that we should be there.

**Asid Khan:** Sandra White is probably best placed to answer that question, because she mentioned the Norway example.

**Sandra White:** Unfortunately, I do not think that we are alone—in fact, we know that we are not. Even though Europe condemns what is happening, it does not really do anything about it. It does not matter to me whether it is the Scottish Parliament, Glasgow City Council or anybody else; organisations have to take a stand. I think that the issue is reserved, but I am sure that the clerks will check that out for me. Whether it is reserved or not, I want to know who told SDI, which is paid for by Scottish public money, that it could go ahead with the trade mission. If the issue is reserved, it is all the more complicated. SDI took it upon itself to plan the trade mission and did not answer any of Pauline McNeill's questions or my questions.

**Pauline McNeill:** SDI is answerable to the Scottish Government.

**Anne McLaughlin:** The answer was that there are no trading restrictions—as though that made a difference. I am sure that we will establish the facts in our follow-up to the petition.

I am more involved in work that is based on what has been happening for a long time in Sri Lanka. I am horrified at what is happening in Israel, but I am equally horrified by what has been happening in Sri Lanka and other countries in the world. We have to look at that. There is an ethical question about who we deal with. Somebody asked me recently where we should draw the line. Personally, I believe that we really have to take a moral stance when it comes to trading with a lot of countries in the world. It will not do us any damage as a nation to restrict our trading with countries that we know are committing human rights atrocities.

**Bill Butler:** I am a member of the cross-party group on Palestine; if that is an interest, I declare it. I am disturbed by Asid Khan's powerful presentation. There are questions that we need to ask. I really do not want to get into the question of what is reserved and what is devolved. All I know is that, according to the briefing on the petition, SDI is a joint venture between the Scottish Government and Scottish Enterprise. It arranged the trade mission to Israel, in partnership with UK Trade and Investment. As a committee of the Scottish Parliament, we have a right to ask the Scottish Government a number of questions.

It would not be going over the score to ask for a full report of the SDI trip and of its purported achievements—if there were any. We should ask the Scottish Government whether it will review its policy with respect to trade missions and publicly funded bodies such as SDI making journeys to Israel. Perhaps there could be Government guidelines, as Asid Khan suggested. It would be helpful to write to the STUC, asking for its take on the issue.

Israel is not the only country that violates international law, but we are discussing Israel in this petition—it is a discrete and separate petition. Israel has violated international law, in particular UN resolution 242. We do not have to rehearse the issues around what has happened in Gaza and what is still happening to Palestinians.

According to the strict terms of this particular, separate, discrete petition, we are entitled to ask those questions of the Scottish Government, and I think that we should.

**Anne McLaughlin:** My drawing attention to the confusion over whether the matter is devolved or reserved is genuinely not intended to be party political. We need to know who could have stopped, and who can, in future, stop, such things happening. Let us put our questions to the UK Government—although we will obviously need to change them slightly.

I understand what Bill Butler says, in that the petition is about Israel. Could we ask both Governments a question about their attitudes towards changing or examining our trading relations with countries that violate United Nations human rights resolutions? I do not think that the petitioner would necessarily object to that—would you, petitioner?

**The Convener:** We will try and pull that together.

**Anne McLaughlin:** China and Sri Lanka are examples—many countries are involved. I am not trying for a second to take away from what is happening in Israel. If we take the course of action that I suggest, we do not need anyone to submit similar petitions about all the other countries that are doing horrific things.

**The Convener:** As Pauline McNeill and Sandra White indicated, it is a matter of determining what guidelines are available for agencies representing the Government and what criteria apply. The response from the Minister for Enterprise, Energy and Tourism regarding the relationship with UK Trade and Investment has been very carefully framed, understandably. I understand the dilemma that the minister probably feels.

The question is whether we in Scotland—taking into account the agencies that represent us—can

apply a broader guideline that might allow us to make an appropriate judgment. In this case, there is a contentious issue around Israel, but there may well be contentious issues to address in the future in relation to other international situations or breaches of international law.

The discussion has opened up a can of worms—there are three hands up. I will let Bill Butler, John Wilson and Robin Harper contribute, but they must hurry up.

**Bill Butler:** If you wish to develop the petition in the way that has been suggested, I am in your hands—I have nothing against that. We could usefully ask the Scottish Government what discussions it had with the UK Government prior to the trade mission that we are discussing. That would be perfectly legitimate, and it would allow what are probably overlapping devolved and reserved responsibilities to be considered by the Scottish Government as it responds to the committee. I hope that that would meet colleagues' concerns.

**John Wilson:** It is right that we should concentrate on the Israeli state but, to get the context, we must also find out about SDI's role in other trade missions. I would like to widen out the approach and ask how many trade missions have taken place, and to where. We should extend that beyond SDI and the Scottish Government and put the spotlight on the UK Government. There is a crossover, because the UK Government and UK Trade and Investment continue to deal with the Israeli state through trade missions. We can investigate that while we are considering how the Scottish Government and SDI relate to the Israeli state through trade missions to Israel.

The devolved-reserved issue is important. The Scottish Government is trying to act in Scotland's best interests in trying to attract new business or to find new markets for Scottish goods and services. However, as colleagues have said, we must be careful about the countries and regimes that we deal with. There can be problems if we are seen to support regimes and countries that oppress their people or a separate state. The Palestinian state has been recognised as a separate state by the United Nations. As Asid Khan said, there are 85 UN resolutions condemning the Israeli state for the treatment of a neighbouring state. It is not only people who are being oppressed; it is a state. People are suffering because of the Israeli state.

We need answers from SDI, the Scottish Government and, importantly, the UK Government. I know that we cannot ask the UK Government about this under the terms of the petition, but we could ask about its role in the United Nations in trying to get movement on those resolutions. We are talking about the oppression

of people and a state. The Israeli state has been condemned throughout the world, but few countries seem to want to take a stand to try to resolve the issue or to put pressure on that state to stop the killing and murders and whatever else it is doing in the land grab in the West Bank. Unfortunately, that is all wrapped up in the SDI trade mission. The perception is that we are condoning the actions of a country against another state by, in effect, trading with it.

I am sorry for my long-winded comments, convener. It is important that we find out about other trade missions that SDI has been involved in and what guidance it gets from UK Trade and Investment. We also need to know what UK Trade and Investment has been involved in. Another issue is whether companies in Scotland that were part of the delegation to Israel could simply do the same again through UK Trade and Investment rather than SDI. The issue is whether the Scottish Government should retain its right to have trade delegations or whether we should hand that over to a UK Government that clearly is not intent on taking action in relation to the Palestinian state.

**Robin Harper:** I return to the question that I asked earlier about the possibility of our assisting with the arming of what is in effect a rogue state. I would like an assurance that we have not been doing that, and the only way in which to get it is to have absolute transparency about the companies that were involved in the trade mission. We should not forget that we might not see the BAE Systems logo—a subsidiary company that trades on its behalf could be involved. We need to check that and then react appropriately to the possibility that we have been arming a rogue state.

16:00

**The Convener:** Okay. I want to pull the discussion together because it has been a long day.

**Bill Butler:** I do not want to make it longer, but it strikes me that we should ask the Scottish Government whether there have been any other trade missions to Israel by SDI, so that we have the complete picture.

We should concentrate on the petition that is before us. I do not necessarily disagree with what colleagues have said about the possible wider ramifications, but the petition is on a certain agenda and the petitioner is precise about what he is asking us to do. Asid Khan has made crystal clear the four main areas that he wants us to consider. It is reasonable that we have enlarged that a little, but we have to focus, as I used to say in a previous existence. I hope that we will focus on this important petition, which raises serious concerns.

**The Convener:** I will ask Asid Khan for a final comment after a brief comment from Pauline McNeill.

**Pauline McNeill:** Like Bill Butler, I do not disagree with what was said round the table about wider questions. I do not have an issue with that, but I urge the committee to focus primarily on the petition. It is significant that the one international issue that the Parliament has debated in Government time is humanitarian aid to Gaza. I cannot think of another such situation in which the Parliament has spoken unanimously. If I remember, the vote on that occasion was unanimous. I find it surprising that SDI has almost ignored political opinion on the matter, given that it is accountable to the Government.

I support Bill Butler's suggestion that, although there are wider questions, the committee should focus on the petition.

**Asid Khan:** As far as I know, SDI is funded by the Scottish Government. Other states in the world are breaking international obligations, but Israel is the worst. We must think carefully and put in place an ethical policy if we are to do any sort of trade with a state such as Israel. As Bill Butler said, I request four things of you in my petition, and it would be really good if you could look into those.

**The Convener:** We have had a good opportunity to explore the issues that you raise in the petition. You have identified specific areas that you want us to explore, which we will do, and members made two or three further suggestions. In gathering the information, it will be worth while to get the questions out there, so I am happy to take on those requests by members. From there, we will be able to drill down to the specific areas that we want to consider thoroughly. Obviously, that is your ambition for your petition, but we need to gather the information before we can take it to the next stage.

We will explore the issues and keep you up to date. You can raise matters with the clerks at any time during the process. We hope to return to the petition in the near future when we have gathered responses. Thank you for your patience today. I hope that the experience was not too daunting and that it has been a worthwhile exploration of your concerns.

**Asid Khan:** Thank you.

### **Israel (Scottish Parliament Exhibition) (PE1324)**

**The Convener:** I am conscious of the time, so we move swiftly on to the next petition. PE1324, by Sofiah MacLeod of the Scottish Palestine Solidarity Campaign, calls on the Scottish Parliament to cancel the Israel's contribution to

medicine, science and technology exhibition that is scheduled to run in the Scottish Parliament from 27 to 29 April.

Members have seen a letter from Paul Grice, the clerk and chief executive of the Parliament, which sets out the consideration that was given to the decision to allow the exhibition to take place. Further information has been made available from other organisations such as the Scottish Council of Jewish Communities, which supports the exhibition in the Parliament.

I invite comments from members.

**Bill Butler:** Again, convener—

**The Convener:** Sorry, Bill. I will let Sandra White come in first, then I will invite you to comment.

**Sandra White:** Thank you, convener.

I know that it is quite controversial to say that some exhibitions should not take place in the Parliament, and I understand the democratic right of the Parliament and of people, but I only wish that the Israeli Government understood the rights of the Palestinian people—the people in Gaza.

The first issue I want to raise is about the title of the exhibition. “Israel’s contribution to medicine, science and technology” is pretty far reaching. I wonder what the criteria are for the titles of exhibitions, and whether an exhibition with such a wide title can be proposed. Do we have any criteria on the sponsoring of exhibitions?

Secondly, given that that wording is so far reaching, as Robin Harper mentioned, is the Parliament being asked to sponsor arms manufacturers and private health care firms? If we are, I would be concerned about that—not in my name, you might say. We do not know what the exhibition is about. Israel’s contribution to where? To the world? It is certainly not to Palestine or the middle east. What is Israel’s contribution? If the exhibition is allowed to go ahead, and I find that private firms—particularly arms firms—are being advertised, I will be unhappy that the Parliament is being used in that way.

I have not seen the letter from Paul Grice yet—I look forward to seeing what that says. Will the Parliament be happy if it turns out that we are sponsoring something to do with the arms trade, private health care or something else controversial?

**Bill Butler:** I am a member of the cross-party group in the Scottish Parliament on Palestine. The problem that we face is that the exhibition does not contravene the Scottish Parliamentary Corporate Body’s published policy on events and exhibitions; therefore, in strict formal terms the committee does not have a locus in that regard.

We cannot prevent the exhibition from going ahead, although after the meeting I will sign Patrick Harvie’s motion. However, I ask the clerk, via you, convener, whether it would be within our rights as a committee to ask the SPCB for a copy of its policy on events and exhibitions, and whether it will consider reviewing that policy in light of the petition. I think that that would be legitimate but I would like the clerk’s opinion on that. That is about as far as we can go.

**Fergus Cochrane (Clerk):** We can certainly get a copy of the policy, which, with hindsight, we should perhaps have provided for committee members. If the committee wants to write to the corporate body, asking for a review of the policy, that is a decision of the committee, and we would take that forward.

**Bill Butler:** I was asking whether the SPCB was considering a review. I do not think that we can push the matter with the SPCB—because it is the SPCB—but we are fully entitled to ask it whether it would be willing to consider a review. That would not be going too far.

**Robin Harper:** I have signed Patrick Harvie’s motion and I thank Bill Butler for his helpful suggestion. There is nothing wrong with the Parliament celebrating the contributions of any country to the fields of science, medicine and technology. I look forward to the day when we can rightly celebrate Israel’s considerable contributions in those respects. However, this is simply not the right time in history for us to celebrate Israel’s contributions. This is a time when we should continue to put pressure on Israel to behave properly.

**John Wilson:** I support partly what Bill Butler said and fully what Robin Harper said. The response from the chief executive on behalf of the corporate body states:

“The exhibition also meets the criteria of providing information relevant to MSPs in their constituency roles and of providing information to MSPs about a specific issue.”

What criteria have been used?

I am particularly unhappy with the example that is used in the letter that there have been four exhibitions on Palestinian issues. The issue is much wider than that direct link and is about Israel’s role. As Robin Harper has said, Israel has contributed a lot to science, technology and medicine, but many developments have been to the detriment of people in neighbouring countries. We have to recognise that.

I would like to see the justification in the application to host the exhibition that met the criterion that it would benefit individual MSPs in their constituency work. Pauline McNeill is unfortunately not here now, but she said earlier that the international issue that this Parliament has

united around is the condemnation of the Israeli state's treatment of the Palestinian people. Similar to our discussion on PE1308, it could be argued that we are condoning the actions of one state against another by hosting the exhibition.

If the corporate body has not considered reviewing its policy on hosting exhibitions, I suggest that as a committee we should write to it to ask it to do that. Unlike Bill Butler, I think that we have a right to ask that. The corporate body should be accountable, like any other Government department or minister, or other body over which the Parliament has some authority, for the action and decisions that it takes on behalf of the Parliament.

**Rhona Brankin:** I think that we have to be very careful. I support writing to the corporate body to ask for its position on exhibitions, but we are getting into the territory of questioning MSPs' right to bring forward exhibitions on certain organisations. MSPs should have the right to bring forward exhibitions that they find of interest and which would interest and inform other people, and I would be very concerned if this committee was getting into the territory of preventing that from happening.

**Bill Butler:** John Wilson and I are in danger of violently agreeing with each other. It might have been a lack of care in the way I phrased my suggestion, but I meant to say that the committee should ask the corporate body whether it will consider reviewing its policy in the light of the circumstances of this petition. If there was any misunderstanding on that, I hope that I have cleared it up. I do not see any separation of view between me and John Wilson.

**The Convener:** I may have received a yellow card from Anne McLaughlin. I have inadvertently missed her out twice today.

**Anne McLaughlin:** My views on the situation in Palestine are clear, but I am concerned by a letter that we received from the Scottish Council of Jewish Communities. It refers to the Jewish community feeling particularly vulnerable in Scotland at the moment and states that there has been a rise in anti-Semitic incidents, including the vandalising of gravestones in Jewish cemeteries. At the end of the letter, it asks members

"to be more than usually aware of their language and tone so as to minimise the possibility of accidental or deliberate misinterpretation."

I think that we have been careful today, and I do not think that anyone in the committee would not condemn anti-Semitic attacks. Indeed, I am aware of a couple of attacks, because people have been in touch with me about them in the past year.

As Robin Harper said, we want to celebrate other countries' achievements. The letter from the Friends of Israel says:

"Many countries throughout the developing world welcome Israel's aid, training and co-operation in the field."

Like Robin Harper, I look forward to the day when we can celebrate the good things about Israel. However, I was struck by the petitioner saying that

"To celebrate Israeli technology at this time",

which is what we will be doing with the display—although I will not be doing so personally—

"is to collude in the routine testing of new weapons on the imprisoned Palestinian people, the dropping of white phosphorous on built-up areas of Gaza, the denial of spare parts to water purification plants designed to cause illness and suffering, and the technological edge that enables Israel to kill over 1,400 people in Gaza at little risk to those carrying this out."

Unfortunately, that is what we will be celebrating with this display. It is therefore right to ask the SPCB to review the guidelines and to think twice about this type of thing. If we are talking about not taking trade missions to Israel, Parliament must also consider not demonstrating support for Israel's achievements, which, at the moment, are having a devastating effect on the people of Palestine.

16:15

**Robin Harper:** It is important that we all state clearly that there is nothing anti-Semitic in our stance, and that we would utterly any condemn any attacks on Jewish cemeteries, synagogues and Jews, who are valued members of our community.

We should indicate that we are well aware that Israel has many political parties, some of which condemn the present Israeli Government's policies, and many people in Israel behave with absolute responsibility, love and care towards the Palestinian community. We want to encourage the probably more than 50 per cent of those who live in Israel who would rather that it all stopped and that their Government would desist from pursuing its appalling current policies. Maybe one day, in the not too distant future, we might have to entertain the possibility that an election in Israel might mean that all of this can be reversed. It is certainly something to be hoped for.

**The Convener:** We have heard a number of suggestions. From the dialogue between John Wilson and Bill Butler, I get the broad sense of a direction of travel.

The committee has to take on board and try to address the petitions that are submitted to it. I am strongly of the view that none of us would consider



to be acceptable any behaviour that is targeted at individuals of ethnic origin, or about the role of the nation state and its conduct as opposed to that of an individual. I stress that.

I understand the concerns that have been raised in the letters that have been submitted about the petition, but it is important to stress that we are here to deal with the views of committee members and the petitions that are in front of us, and that we do not condone any behaviour that threatens any individual's right to freedom of speech and liberty. I put that on the record for the benefit of those who have raised concerns.

Members have made a number of suggestions. We can take those forward. We want to discuss with the SPCB its criteria and guidelines. Let us see whether we can explore those and get greater clarity.

**Anne McLaughlin:** Would it be inappropriate to write to the member who is sponsoring the exhibition to explain our strength of feeling and ask whether he will reconsider?

**The Convener:** The letter that we received from Paul Grice indicated that people can raise matters with individual members.

**Anne McLaughlin:** Can we do that as a committee?

**The Convener:** I do not think that there is a sense that the committee should do that at the moment. We can explore some areas around the petition with the SPCB. Is that okay?

**Members** *indicated agreement.*

### **Vulnerable Livestock (PE1309)**

**The Convener:** PE1309, which Jamie McGrigor has patiently waited for, is by Farquhar Macbeath and calls on the Scottish Parliament to urge the Government to amend relevant legislation to remove the protection that is given to sea eagles and other predators such as foxes, badgers and ravens in order to allow farmers and crofters in certain situations to kill such predators to protect their livestock from injury and death incurred by predator attacks. Further information has been provided by the petitioner. Our deputy convener, who cannot be here today, has expressed particular interest in the petition. Jamie McGrigor might wish to say a few words about the petition.

**Jamie McGrigor (Highlands and Islands) (Con):** Thank you, convener and committee members, for allowing me to say a few words. I am pleased to be able to make a short statement in support of the petitioner, who is in the audience with his daughter, having come all the way down from Glenelg. The petition deals with a serious issue on which an increasing number of crofters

and farmers are contacting me. Indeed, in the past couple of days, crofters from Skye, Caithness and Sutherland have contacted me to offer their full support to Mr Macbeath's petition. I can read out later a couple of the letters that I have had.

Mr Macbeath has worked hard all his life, and has brought up his children on his croft in Glenelg—it is hard country there. He believes that predation by foxes and, lately, by sea eagles and, for that matter, golden eagles has decimated his livestock. He has been left with very little after a lifetime's hard work.

I first took up this issue with the Minister for Environment in 2008, after I attended an unusually large public meeting in Poolewe on the subject of sea eagle predation. None of the answers from Scottish Natural Heritage and other bodies at that meeting satisfied my constituents who were there.

More recently, I wrote to Richard Lochhead asking what the Scottish ministers, as Mr Macbeath's landlord, were prepared to do about his livestock predation problem. I got a letter back saying that predator control was best left to individual crofters doing what they wanted. That is all very well with foxes, which are not protected by law; even a puma, if it existed in that area, would not be protected by law. However, what does Mr Macbeath do—I crave the committee's indulgence for a moment—if he or somebody else on his croft is going round his sheep on a mountainside, and they come over a hill to see a newly born young lamb being torn to pieces by a large predator? What is Mr Macbeath meant to do? Does he wave nicely at it and produce the mint sauce? I do not think so. That is why the situation is serious.

As a member of the Royal Society for the Protection of Birds, I am ardently against the killing of protected species. However, the situation that Mr Macbeath and others face has simply not been addressed by anyone at a high level. Frankly, it is long overdue for someone in authority to take notice of Mr Macbeath's plight rather than just shove it under the carpet, because that is thoroughly unfair. I am sure that you will agree, convener, that the fair play for which Scotland is famous should extend as far as Glenelg.

The petition asks the Parliament to introduce measures to allow crofters and farmers to protect their livestock against all predators. That seems to me only fair to people who farm at the edge of our remote areas and who have no other support. Mr Macbeath has the backing of John Farquhar Munro, his constituency MSP, who unfortunately cannot be here today. I have also raised the question of sea eagles at meetings of the Parliament's cross-party group on crofting. I have been assured by the Scottish Crofting Foundation that it fully supports Mr Macbeath's petition.

A recent Scottish Government/SNH study looked at sea eagle predation in Ross-shire, but the results were inconclusive and the methodology that was used caused concern among my crofting constituents. I will not go into it, but it involved tying a large box to each lamb with the result that the lambs with the large boxes were not taken but some of the others were.

There is a lack of food in the area. The blue hares and rabbits that used to inhabit the Highland area where the sea eagles were present early in the previous century are no longer there and the birds are being forced to kill lambs to avoid starvation. Who can blame the birds for that? That should have been thought of before the reintroductions were made. It is interesting to note that a sea eagle from the Isle of Mull was recently found dead in the eastern part of Angus, which shows how far the birds range.

The Scottish Government must be made to take the issue seriously, as young livestock in the Highlands and Islands are being preyed on with no recourse for the people to whom the animals belong and who make their livelihoods from farming them. I congratulate Mr Macbeath on being courageous enough to take up this matter. He is speaking not just for himself, but for others in the livestock industry. I hope that the committee will listen and do something to help.

Might I have a minute or two more, convener?

**The Convener:** Half a minute.

**Jamie McGrigor:** At the moment, if a dog kills sheep, the owner of the sheep can demand that the dog be destroyed, and if a fox eats lambs, it can be hunted down or shot by spotlight at night, but there is no remedy at hand for sea eagle predation. The situation is forcing people into corners so that they might take the law into their own hands, which is what I am here trying hard to avoid. I accept the law, but it is up to those with the authority of Government behind them to ensure that there is protection from the effects of introduced predators.

Some farmers and crofters in parts of Scotland such as Mull and certain areas of Skye currently receive compensation for damage that is done to livestock by sea eagles. That shows that SNH acknowledges that the problem exists. However, the compensation is not available nationwide, which seems unfair. Frankly, though, farmers and crofters do not want just to get paid money; they want to protect their livestock. That is not surprising. I do not think that many people would have the heart to go on for long taking sheep all through the winter, only to feed some sea eagles. I am here to draw the committee's attention to that.

I end by reading a letter from Mr J A MacCusbic, from the Isle of Skye:

"I write again with regard to Sea Eagle predation and the huge losses incurred at this time of year and throughout the summer. I understand you are meeting next week with Mr MacBeth from Glenelg and I wish to lend him my support as his sheep flock has suffered greatly over the years due to Sea Eagle attacks. Last year I presented a petition with over 100 names to Mr Lochhead, requesting that this problem be reviewed by M.S.P.S and that something be done about it. The response, to be frank, was very disappointing! How much more must we put up with before someone, somewhere takes the law into their own hands!"

Thank you, convener.

**The Convener:** That was brief. Do members have any comments on how we might deal with the petition?

**Nanette Milne (North East Scotland) (Con):** There is clearly an issue here. I have visited a sea eagle place on the east side of Scotland. They are magnificent birds—there is no doubt about that—but it appears that serious damage is being caused, mainly in the west, although I hear from farmers in the east that there is damage there as well.

We should ask the Government what information it has on what is going on. Jamie McGrigor and others have presented information to it, and I would like to know what information the Government has. The proposed wildlife and natural environment bill is coming up later this year, and I would like to know whether there will be anything about the issue in it or whether the Government would consider putting something in the bill to deal with this obvious problem.

16:30

**Rhona Brankin:** This is one of the challenges in a country that seeks to have both a farming and crofting industry and thriving wildlife. Having been involved in the reintroduction of sea eagles, I am passionate about the species, but I recognise that we need to have up-to-date information about what impact the reintroduction has had. In Islay, the sheer number of geese that were coming in was damaging farmers' income. There was discussion with farmers about the issue and agreements were reached. It is not beyond the wit of man—or woman—to find some sort of accommodation. We need to do that. I am keen for the committee to get up-to-date information on the issue, to find out about the latest research on a range of species. Once we have that information, we can decide how to proceed.

**Anne McLaughlin:** Glasgow, as a city, does not have this problem—

**The Convener:** There are other predators.

**Anne McLaughlin:** That is true, but we have laws to deal with them. Jamie McGrigor explained the petition well, and I have a great deal of

sympathy for the gentleman who submitted it. I would be keen to contact animal welfare organisations to find out whether there are alternatives to what has been suggested. The petitioner is probably sitting in the public gallery shaking his head, but I would like to explore that issue. Jamie McGrigor mentioned that the birds are attacking lambs because they are starving. Could something be done in that area? I would like to get advice from a range of organisations that are looking at the issue from different perspectives. I wonder why the petition mentions badgers; Jamie McGrigor talked about eagles and ravens, but I am not sure what the poor badgers have been up to. I have a great deal of sympathy for the petitioner and others who find themselves in this position, but I would really like to know whether we can proceed in another way.

**Jamie McGrigor:** Am I allowed one word?

**The Convener:** Not yet. You have had a good few thousand, Jamie, so calm doon the noo. I will let you in at the end.

**Robin Harper:** I will be brief. I have no problem with the idea of asking the Government, SNH, NFU Scotland and the RSPB to respond to the petition, but I have a question. Were the boxes on the lambs an experiment to see whether it was possible to deter the eagles from attacking them by giving them a different configuration that made them less attractive to sea eagles from the air?

**Jamie McGrigor:** I believe that the boxes contained tracking devices, so that if the lambs were taken they could be found. Anne McLaughlin made a good point about starvation—eagles have to feed on something. The Scottish Gamekeepers Association has shown that eagles can be fed. I know people who have fed sea eagles and golden eagles; that is one answer.

**Robin Harper:** Indeed. I realise that our farmers would rather have the lambs that they breed go to slaughter and be eaten by human beings, but many farmers think that having lambs eaten by eagles is quite a good way of feeding those predators, as long as farmers are compensated to the same level by the state. As Jamie McGrigor indicated, farmers are being compensated. We could ask the Government to extend the compensation scheme to the area that he mentioned.

My final observation is about the reintroduction of the shooting of eagles. Given the evidence that we have already received about the range of eagles, such a measure would simply place the entire population of eagles that we have reintroduced to the west of Scotland at risk from being shot.

**John Wilson:** Like Jamie McGrigor, I declare that I am a member of the RSPB, and also of the

Scottish Wildlife Trust. I understand and have some sympathy with the petitioner, but we should consider what would happen if we extended the list of predators against which we could take action. The petition starts off with sea eagles. The supplementary information goes on to cover golden eagles. Where would we stop when it came to predatory birds and other animals? Like Anne McLaughlin, I am unsure why badgers have been included among that predatory group of animals in relation to the petition.

There are issues to consider, and Rhona Brankin made the point clearly that we, as the Scottish nation, reintroduced sea eagles to the wild a number of years ago. We recognised that, because of farming techniques and other factors, we had wiped out a whole type of bird that was natural to both the Scottish mainland and the islands. As Robin Harper said, we should find a way to live in harmony with these other creatures, whereby everybody benefits. He was right: we must ask the Scottish Government about the current compensation scheme. Many smallholders and farmers find the system too bureaucratic. If that is the case, we should find ways of compensating farmers, smallholders and others, rather than trying to find an ultimate solution that involves wiping out the predators that seem to be accused of causing the problem.

The farming reports from the past weekend indicate that many lambs were killed by the severe weather, rather than by being taken by predators. There are remedies in farmers' and smallholders' hands when it comes to other predators such as ravens and to the licensing programme for foxes.

It has been suggested that we should lump in other predators, effectively for annihilation, because they take so many lambs. Like other members, I would like to see any evidence that justifies taking the type of action that the petitioner and the supplementary information call for in relation to birds of prey.

**The Convener:** I think that we wish to continue the petition. There are a number of issues to consider, irrespective of how people feel about the subject. It is a difficult matter to resolve, and I am sure that the petitioner has opinions on how best it can be dealt with, which might come into conflict with other people's equally firmly held positions on the opposite side of the argument.

The petitioner has raised some issues that we want to address with the Government. The compensation scheme has been mentioned a number of times. We should also write to organisations such as RSPB Scotland, SNH and NFU Scotland about the approaches that we might take to the issues.

**Rhona Brankin:** I am not in favour of writing to the Government asking it to remove the current protection, but I am in favour of asking the Government and other organisations for their views on the petition and on the issues that it raises. Until we have received that information, we are not in a position to take a view ourselves.

**Anne McLaughlin:** Can we include some campaigning animal rights organisations? They are more likely to come up with alternative solutions. I am thinking about Animal Concern, the Scottish Society for the Prevention of Cruelty to Animals and WWF, for example. I can send some suggestions.

**The Convener:** Jamie, do you have a final comment?

**Jamie McGrigor:** I suggest that you include the Scottish Gamekeepers Association in that list, because it has already been experimenting with feeding eagles. It might be worth contacting it to provide balance.

I appreciate members' comments and I would be grateful if their suggestions were taken forward. I do not want to make any further arguments.

**The Convener:** You have put in a reasonably good shift this afternoon—I am a humanitarian in these matters. I am happy to keep the petition open. If individuals wish to make any further submissions, we would be happy to receive them. We will report back to the committee in due course.

### Planning Circular 3/2009 (PE1320)

**The Convener:** PE1320, by Douglas McKenzie, on behalf of Communities Against Airfield Open Cast, calls on the Scottish Parliament to urge the Government to amend planning circular 3/2009, on notification of planning applications, to provide the same status to a planning objection to a major development from a neighbouring local authority as to one from a Government agency in order to trigger a notification to the Scottish ministers; and to state that such objections by a neighbouring local authority to major developments that represent a departure from the development plan should be a significant factor in a decision to call in an application. Members have the papers in front of them. Are there any comments?

**Rhona Brankin:** Yes. This petition is of interest to me because it affects my constituency of Midlothian. It also affects East Lothian. Iain Gray sends his apologies: he is not able to be with the committee, but he very much supports the petition. It is not a question of petitioners coming to the committee because they are concerned about a planning application. The concern is that although planning applications can have a major impact on

a local authority that is particularly close by, that authority has no opportunity to have the planning application called in in the way that Scottish Natural Heritage and Historic Scotland do. The petition calls for a change to the planning regulations and asks that where a planning application significantly affects a neighbouring local authority and where it goes against the plan that is in place, the Government should call it in.

The application in East Lothian is for an extremely large opencast mine. Given that it is virtually on the border with Midlothian and will have major long-term effects on many constituents in Midlothian, as the local MSP I have a range of concerns. If I lived close to the border of a neighbouring authority that had a planning application for a major development that would impact on my life, I would be concerned about it. I do not want to say anything more at this stage, but I would be pleased if the committee took the petition further by writing to the Government, the Royal Town Planning Institute in Scotland and Planning Aid for Scotland to seek their views on the issue.

**Robin Harper:** Speaking as a Lothians list MSP, I support everything that Rhona Brankin said. It is a bizarre situation—in fact, an intolerable situation—when one council can give planning permission for a development that will have a far worse effect on the council next door than it will have on the council that is granting the planning permission. Given the planning pressures that we will come up against in years to come, the Government needs to deal with that anomaly. I strongly support the call on the Scottish Government to amend planning circular 3/2009.

16:45

**The Convener:** I think that we want to continue the petition and explore some of the issues.

**Nigel Don:** I agree with the principle, but we need to be careful to look nearer the horizon. I represent two cities—Dundee and Aberdeen. If Aberdeenshire, Angus or a little bit of Perthshire was to consider an application for something close to the boundary with Dundee or Aberdeen, it would be considering something that was within four or five miles of the centre of the neighbouring conurbation. In other words, it is easy at the edge of a countryside area to be close to a substantial urban population. That suggests that if we push this too far, we might be in a position where almost anything on the borders of a city would automatically have to be considered by that city, because it would be bound to have implications for transport, air quality, noise or something or other. If we are not careful, we might finish up asking for rules that make it almost impossible to do anything close to the boundaries of cities.

**Rhona Brankin:** One of the intentions that underpins planning legislation is that we should look at region-wide plans and strategic planning. That underpins the petition, which says that we should look, in a holistic way, across communities within a region. The wording of the circular does not encourage local authorities to do that, and could place local authorities in conflict with each other, rather than provide some sort of dispute resolution system.

**Nigel Don:** I thank Rhona Brankin for making my point precisely. The problem is always boundaries. The hard boundaries between cities and the country emphasise the problem. The solution is to make the planning area wide enough that the boundaries turn out to be soft boundaries and we do not have these problems. Having said that, we will not eliminate every possible issue. I suspect that opencast mines are always likely to be on the boundary with the country. We need to take a wider view than just worrying about one little boundary dispute.

**The Convener:** We wish to explore a series of areas. There is no conclusive view on the petition yet, because we are opening up the debate. We want to explore the points that have been raised by the petitioner. Two local authorities are involved. Midlothian Council is the authority with the planning power and East Lothian Council is the local authority that could be affected by the development. We might look at one or two other local authorities to see whether there is broader awareness of the issues. We might also address the specialists in the area, such as the Royal Town Planning Institute.

Are those recommendations accepted?

**Members** *indicated agreement.*

### **Gypsy Traveller Sites (PE1321)**

**The Convener:** The final new petition is PE1321, by Lynne Tammi, on behalf of the Young Gypsy/Travellers Lives Project, which calls on the Scottish Parliament to urge the Scottish Government to remove the Trespass (Scotland) Act 1865 from all future guidance on the management of Gypsy Traveller temporary and halt sites. A number of individuals came to the committee today but, because of the lengthy nature of committee business, a couple have had to return home to Oban. I thank them for making the time to come down. It was a long journey, and it is unfortunate that this petition clashed with a number of others that required considerable discussion and detail. I know that there are supporters of the petition in the public gallery.

We have seen the papers, and comments from members on how this petition should be addressed would be useful.

**Bill Butler:** We should continue this petition. We should write to the Scottish Government asking whether and when it will remove the Trespass (Scotland) Act 1865 from all future guidance on the management of Gypsy Traveller temporary and halt sites; if not, why not; and whether there is a case for it to remain. That would be a good starter.

**The Convener:** I will take Robin Harper and then Anne McLaughlin. I certainly do not want to risk getting a red card from Anne.

**Robin Harper:** We should also ask about the progress that the Government has made on meeting its commitment to review guidance on site management for local authorities in consultation with Gypsies and Travellers, including children and young people in the Gypsy Traveller community.

**Anne McLaughlin:** I was about to make the same point. A review is being carried out at the moment, and I would be surprised if the Government were not willing to remove the references to the 1865 act. We certainly should find out when the review will be completed.

**The Convener:** There is broad consensus that we should explore the petition. I should say to those who have waited patiently for two and a half hours for this item that the brief amount of time that we have spent on it does not reflect our appreciation of its importance. If I were sitting where the petitioners are sitting, I would be thinking, "I've been here for two and a half hours and that's the petition dealt with." I want to reassure you that we will keep the petition open and that we will explore the issues that you have raised. We want to get satisfactory responses and, as you will have heard, members are keen to keep up the pressure in that respect.

**Anne McLaughlin:** We should also seek the views of local authorities, which, after all, enforce the 1865 act. I should also say that we have dealt quickly with the petition because we expect it to be successful; however, just in case it is not, we have to seek views from a wide variety of people.

**The Convener:** It might also be helpful to get a policy and cultural history perspective on the rights of Gypsy Travellers from the Scottish Gypsy Traveller Association and the Scottish Gypsy Travellers Law Reform Coalition.

We will keep the petition open and bring it back to the committee in due course. I hope that the two young people who have had to go back to Oban accept my explanation and that we are trying to resolve the issue.

## Current Petitions

### Cancer-causing Toxins (PE1089)

16:52

**The Convener:** PE1089, by Morag Parnell, relates to exposure to hazardous toxins in the environment and the workplace and the rising incidence of cancers and other chronic illnesses. We have discussed this petition a number of times and, if members have nothing further to say, I suggest that, given the assessment that Scottish Government officials are carrying out and the fact that in response to one particular suggestion the petitioner has already contacted two of the expert committees in this area, we have come to the end of the road with this and recommend that we close it. Before we do so, we should pay tribute to the Women's Environmental Network Scotland for its work on raising awareness of toxins in the workplace. Are members agreed?

**Members** *indicated agreement.*

### St Margaret of Scotland Hospice (PE1105)

**The Convener:** In introducing the next petition, I look to my left in fear and trepidation at the dastardly duo of Des McNulty and Gil Paterson. Margo MacDonald is present to speak to another petition but, unfortunately for me, I see that she, too, has joined us for this item.

PE1105, by Marjorie McCance, on behalf of the St Margaret of Scotland Hospice, relates to funding for that hospice and general policy on hospices throughout Scotland. Given that we have discussed the petition extensively in the past and given the time that we have, I ask all members, Des, to be very brief.

**Des McNulty:** I will indeed be brief, convener.

The original petition had two strands: first, NHS Greater Glasgow and Clyde's proposal to withdraw continuing care provision at St Margaret's hospice; and, secondly, the funding arrangements for hospices. Members will see from the relevant papers that the health board obviously noted the committee's previous discussion of the matter, and Mr Calderwood responded to some of the points that I and others made. I have provided committee members with a detailed reply to his points, which I hope helps them.

On page 2 of Mr Calderwood's letter, he says:

"Three successive options proposed have been put to St Margaret's and been rejected."

The third option was to provide

"care beds with nursing support (an option developed between ourselves, Glasgow City, West and East Dunbartonshire Councils)."

Both West Dunbartonshire Council and East Dunbartonshire Council have denied being involved in any discussions about proposals for care beds with nursing support. They support St Margaret's position.

Mr Calderwood concludes by making three points on page 4 of his letter. He says:

"We are committed to funding the palliative care service which St Margaret's provides."

The problem is that the palliative care services will inevitably be at risk if he or the board withdraws the continuing care funding, which is two thirds of the funding that the board provides, because there will be a significant funding shortage.

Mr Calderwood's second point is:

"We want St Margaret's to continue to provide care for older people but we have asked them to change the use of these beds".

That is the fundamental point of the petition. Why should Greater Glasgow and Clyde NHS Board take it on itself to decide what St Margaret's should provide without proper negotiation or discussion? There has been no proper negotiation or discussion in this case.

Mr Calderwood's third point is perhaps the most worrying. He says:

"Nothing is being asked of St Margaret's which is any different in objective or nature from what is happening elsewhere in the country and across Greater Glasgow and Clyde."

If that were the case, I would be concerned about what is happening throughout the country. However, I am particularly concerned about what will happen to St Margaret's.

There has been a successful members' business debate on the petition since we previously discussed it. A number of members across the chamber spoke in that debate, and the Cabinet Secretary for Health and Wellbeing indicated in it that she expected Greater Glasgow and Clyde NHS Board to have discussions with St Margaret's. Those discussions have not been completed; indeed, it is not entirely clear to anyone whether they have started yet. The onus was put on the health board to take them forward.

Finally, work has been done on the funding issue, but we do not know yet what the funding will be.

On the basis that the funding issue and what will happen to St Margaret's have not yet been resolved, and the process has not been completed, I urge the committee to keep the petition open and keep the pressure on the

respective parties to see whether we can get a successful and sensible outcome.

**Gil Paterson (West of Scotland) (SNP):** I thank the committee for the opportunity to speak to the petition.

I suggest that members take Des McNulty's advice. The review of funding for the hospice movement is in progress. The committee will be trying to wind down its work on certain petitions, but this is the wrong time to do that with PE1105. The committee should await the outcome of the funding review, because an issue relating to that may arise.

Since the members' business debate on the petition, a survey has been carried out in the local area. Some 75 per cent of those who responded to that survey supported the hospice's position.

We should highlight to members who may not be aware of the geography that only a mile and a half separates Blawarthill hospital and St Margaret's hospice. They are in the same geographical area. The proposal is to move 30 beds from St Margaret's to Blawarthill when it is up and running. My argument is that every measurement of the quality of service at St Margaret's that has ever been taken shows that that quality is the highest. Why would we want to jeopardise that? Why not keep the beds in St Margaret's in place, and switch the other beds that were earmarked for St Margaret's to Blawarthill? The two places are in the same health board area. The beds would be in two different buildings, but in the same area.

17:00

**The Convener:** Okay. I do not think that there is much disagreement on the desire to keep the petition open. We are conscious that a critical stage has been reached as far as any recommendations that may come forward are concerned, particularly on the delicate issues of funding and the review.

I am conscious of time, so I would like us just to decide whether to keep the petition open, but if members feel strongly about particular issues, I would be happy to invite comments—please keep them brief, though.

**Bill Butler:** I agree that we should keep the petition open. I would be interested to find out what discussions or negotiations, if any, have taken place between Greater Glasgow and Clyde NHS Board and St Margaret's following the members' business debate on the issue. That is something that we could fruitfully explore.

We should continue our work on the petition because it is about the continued provision of an appropriate service by St Margaret's, which will

not in any way hinder the much-sought-after and much-supported development in Blawarthill hospital in my constituency of Glasgow Anniesland.

**John Wilson:** I put on record my thanks to Robert Calderwood, chief executive of Greater Glasgow and Clyde NHS Board, for his detailed response. I welcome the fact that he has taken the time to respond to the committee, especially given the problems that we have had with the board in that regard in the past.

However, I am concerned about the middle of the paragraph in section 4 of Robert Calderwood's response, in which he states:

"Clearly, it is very difficult for the NHS, portrayed as working against the interests of spiritually motivated people who are providing care for the dying, to be perceived in a balanced way."

The spiritually motivated people to whom he refers are a dedicated team of staff who provide services across the board to people who require them. Yes, they are spiritually motivated, but the fact that they provide vital services to people who are at the end of their lives must be taken on board. Regardless of whether they are spiritually motivated, they provide essential services which, unfortunately, some health boards and other health providers do not provide. The fact that the alternatives that Greater Glasgow and Clyde NHS Board is offering are not the same as the dedicated care services that St Margaret's hospice provides goes to the root of the debate. The board and its chief executive have failed to realise that. The debate is about the provision of end-of-life care services that are tailored to the individual. The provision of those services, unlike those that the health board has made available, is not based on financial considerations.

I hope that we can keep the petition open, get a more detailed report and take the issue forward to the benefit of all concerned. We should not take account only of financial considerations, as the board seems to do.

**The Convener:** I will let Margo MacDonald in briefly.

**Margo MacDonald (Lothians) (Ind):** I am here in support of my two colleagues, Des McNulty and Gil Paterson. I agree with what John Wilson said about the temerity of the health board in judging people's motivation. The hospice provides a service that is more than adequate, as the local opinion poll has shown.

I ask the committee to consider keeping the petition open until after the budgeting arrangements for the new Parliament and Government are in place, because we know that there will be knock-on effects on all services, whether they are provided directly by health

boards or are contracted out to the voluntary sector. It is in that context that one would want to take the decision about the provision of such care.

**The Convener:** I think that the considered view of the committee is that we want to continue with the petition and await the outcome of some of the deliberations and discussions that have been mentioned. Is that agreed?

**Members** *indicated agreement.*

### **Cancer Treatment (Cetuximab) (PE1108)**

**The Convener:** PE1108, by Tina McGeever, is on access to cancer treatment drugs. The discussion will also focus on the health rights information leaflet from the health directorate that the clerk circulated to us last week. Members also have a copy of a revised letter relating to the report that we made on the petition. I invite the clerk to address that.

**Fergus Cochrane:** The committee will recall that, at its previous meeting, it considered a draft of the guidance from the Government. Members made a number of comments. Principally, they did not think that the guidance was particularly binding on health boards, and they also raised an issue to do with the deadlines specified in the guidance by which health boards had to report back. Helpfully, the Scottish Government has taken on board all the committee's comments and suggests that the current version of the guidance is more binding on health boards, which it is hoped will be helpful. The draft letter sets that out. It also touches on the health rights information leaflet that was sent to us last week, which was the first time that the committee had seen it. That stemmed from the committee's report, to which the cabinet secretary referred in the statement that she made to Parliament in March last year. The leaflet has not been sent to the committee for comment; it has come to it for information only. However, I suggest in the draft letter one or two issues that you may wish to raise with the cabinet secretary, and they are set out on page 3 of that letter.

**Bill Butler:** A lot of progress has been made, thanks to the petitioner and the work of the committee in co-operation with the Scottish Government, which is very welcome. I take on board the fact that the guidance has now been tightened up, which is also welcome. However, we should highlight in the revised draft letter one or two areas of the information leaflet that need to be reconsidered. We will come back to the matter if the cabinet secretary agrees to what is in your letter, as we hope that she will, on 1 November 2010. There will then be progress reports from national health service boards in March 2011. On that basis, we should keep the petition open and welcome the progress that has been made.

**Nanette Milne:** I agree with what Bill Butler says. However, I have had contact today from the Association of the British Pharmaceutical Industry, which feels that a key question that was raised in our letter of 2 March has not yet been addressed—namely, how do the area drug and therapeutics committees appraise which medicines are deemed equivalent, and how do we ensure that there is openness and visibility around those decisions and that the equivalent medicines are named so that patients and clinicians are aware of which should be used in place of a Scottish Medicines Consortium-accepted medicine? The ABPI feels that that is a key question.

**The Convener:** Okay, we can incorporate that in the letter if you give us the detail of that observation. We guarantee that, once we have formalised the letter, all members of the committee will receive a copy for comment.

**Fergus Cochrane:** Yes, we can do that.

**The Convener:** Just as a courtesy to everybody who has been involved. We will continue with the petition and draft a letter to go to the appropriate health minister.

### **Transport Strategies (PE1115)**

**The Convener:** PE1115, by Caroline Moore, on behalf of the Campaign to Open Blackford Railway-station Again, calls on the Parliament to urge the Government to ensure that national and regional transport strategies consider and focus on public transport solutions such as the reopening of Blackford railway station and, in doing so, recognise and support the positive environmental, economic and social impacts of such local solutions.

Dr Richard Simpson, who has expressed support for the petition in the past, hoped to be here but has, unfortunately, been called away. There are outstanding issues on the petition. We are still awaiting a full report from the Tayside and central Scotland regional transport partnership. The study aligns with the Government's national priorities in the strategic transport review. Perhaps we should write to Transport Scotland, asking to know the outcome of those discussions, making it aware of the study and asking it to take the study's findings into account in considering the proposals.

**Nanette Milne:** Elizabeth Smith hoped to be able to say something on this.

**The Convener:** Sorry. I invite Elizabeth Smith to comment.

**Elizabeth Smith (Mid Scotland and Fife) (Con):** I will do so briefly, convener, and thank you for allowing me to do it. I support the petition very strongly. It is particularly important at this juncture



to say how well organised the group has been in raising other issues that relate to part of southern Perthshire, where very important developments are going on in new housing and an integrated transport system. It is right that the debate is put in the context of the integrated transport structure. I hope that the committee will take that into consideration in the future.

**The Convener:** My apologies for missing you out at the beginning. There is a wee note in the briefing paper saying that a full business case that the petitioners commissioned is now available. We will maybe invite Transport Scotland to respond to that.

**Elizabeth Smith:** Yes. It makes a very strong case as well.

**The Convener:** We should formally suspend consideration of the petition while we await responses. We will return to it once we have them. Thanks for your time on that, and thanks to Elizabeth Smith.

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

**The Convener:** PE1169 is by Margaret Forbes, on behalf of Scottish Women Against Pornography. We have had the petition in front of the committee before. It asks us to consider ways in which we can enforce measures that ensure that magazines and newspapers with sexually graphic covers are not displayed at children's eye-level or below or adjacent to children's titles and comics, and that they are screen-sleeved before being placed on a shelf in public. A number of issues are involved in this one, so I invite comments from members. Given that we have had lengthy discussion previously on the issues, we now want to recommend a course of action.

**Anne McLaughlin:** Do we know when the Home Office will respond to the recommendations in the Papadopoulos report entitled "Sexualisation of Young People Review"? Do we have a timescale for that? One of the suggestions for the petition is that we wait for that Home Office response before we decide whether we will carry out any research or commission research. However, if we do not know when that response will be, I would be keen to move on with the suggested action.

**Fergus Cochrane:** I know that the research was submitted to the Home Office in February, so I suspect that the response might come later rather than sooner. However, we will certainly chase that up with the Home Office to get an idea of the timing.

**Anne McLaughlin:** How long do such things normally take? I know that there is an election in between.

**The Convener:** It is the Home Office, you know.

**Anne McLaughlin:** A couple of years, then.

**The Convener:** I do not know how committee members feel about this. I know that we are keen to try to help the petitioners. There was a strong sense from committee members previously that they wanted to do so. However, it is a case of putting the petition in the context of an awaited report and deciding whether that would strengthen and help the debate, before considering whether to do further exploration around the petition. I am in the committee's hands regarding how we go forward with the petition. Anne McLaughlin is correct to say that we want to make progress with it.

**Nigel Don:** I have in front of me a press release that tells me that the key recommendations of the Papadopoulos report are that the Government should

"launch an online 'one-stop-shop' to allow the public to voice their concerns regarding irresponsible marketing"

and

"support the Advertising Standards Agency ... to take steps to extend the existing regulatory standards to include commercial websites".

The report also recommends that

"broadcasters are required to ensure music videos"

of the inappropriate variety are not broadcast before "the 'watershed'"; that the Government should

"support the NSPCC in its work with manufacturers ... to encourage corporate responsibility";

and that

"games consoles should be sold with parental controls already switched on."

I am sure that those are all good ideas, and I would not wish to be in any sense derisory about them, but they do not address root and branch the issue that I think worries the petitioner and concerned committee members. Even if those ideas were adopted wholesale within a year, I am not sure that we would be very far forward or that that would do anything to displace the desire for some research to work out what is really going on. Frankly, with the greatest of respect to the Home Office and the Papadopoulos report and its authors, if we really want to examine the issue, we should just get on with it and not expect that report to change the countryside very much.

17:15

**John Wilson:** I am aware that, in the past, the committee has considered the option of commissioning its own research on the issue. The difficulty is that a review has taken place, the voluntary codes that currently exist are UK-wide and, even if we commissioned research and made recommendations, we do not know how the voluntary codes would apply here in what is a UK market.

The clerk made the point earlier that it may be more appropriate for us to write to the UK Government to ask when it intends to respond to the research and review that have been carried out. Its answer will give us an idea of whether we then want to commission our own research. We may be jumping ahead by commissioning and paying for research when whatever UK Government is formed on 7 May may decide to incorporate the recommendations in the review, which would take us forward on a UK-wide basis. Any recommendations that came forward then would have a UK basis and standing among retailers rather than what we could ask for, which is a voluntary code in Scotland. It would be appropriate to wait for the response before we jump into considering research.

**Bill Butler:** John Wilson is correct: we should defer a decision. We should write to the Scottish Government to ask whether it welcomes and supports the recommendations of the Papadopoulos report—I hope that it does—and we can bring the petition to the attention of the Home Office, asking it whether it supports the recommendations and will do anything to endorse them. Until we get that information back, we should hold fire and defer any decision.

**The Convener:** John Wilson's and Bill Butler's combined suggestion is helpful. We will explore the issue further and then take a decision on whether to initiate anything further ourselves.

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

**The Convener:** The next two petitions are grouped together. PE1196, by Michael Brander, calls on the Scottish Parliament to urge the Scottish Government to amend the Animal Health and Welfare (Scotland) Act 2006 as a matter of urgency to allow for 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 on the Scottish Parliament to urge the Scottish Government to amend the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 to allow tail docking

of working dogs under tightly specified circumstances.

Do members have any comments?

**Nanette Milne:** I wonder whether we should suspend these petitions again. We still do not have the outcome of the research study that is being done by the University of Bristol and the Royal Veterinary College. It was expected to have been produced by now and, although it has not been, it appears imminent. I think that we should wait until we get the report.

**Rhona Brankin:** I propose that we close the petitions. The issue was considered by the Parliament not that long ago, when there was support for a ban on tail docking by more than two to one. The Government has indicated that it has no plans to change the legislation, so I propose that we close the petitions.

**The Convener:** So we either suspend or close the petitions.

**Anne McLaughlin:** I do not particularly support what the petitioners call for but, as we decided to wait for a research study, I would not close the petitions until the research study has been published. I would investigate how long it will be before we get the study but, if we have decided already to hold the petitions until we get the research, we should wait for it. We should at least consider the research, and then we can say no if we want to.

**The Convener:** Does Rhona Brankin wish to reconsider her proposal?

**Rhona Brankin:** I was not a member of the committee when the initial decision was taken. I am fundamentally opposed to tail docking, and I do not think that the petition is going anywhere. There is certainly not a majority for it in Parliament; we voted more than two to one against it. It is not very fair to the petitioner to pretend that the petition is going anywhere. It is not going anywhere and it should be closed.

**Nanette Milne:** I am sorry, but I want to hold out to see the report. It is only fair on the petitioner that we see the report first.

**The Convener:** As I see that five members are in favour of suspending the petition, and only one is in favour of closing it, we will suspend consideration of the petition.

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

**The Convener:** PE1220, by Alan Kennedy, calls on the Scottish Parliament to urge the Government to review all relevant legislation to ensure the continuance of general practitioner dispensing practices when commercial

pharmaceutical practices apply to operate in the same area. We have also had this petition in front of us before. There are issues still to be explored, so I recommend that we continue the petition. In particular, we might want to write to the Government to address points about the issues of current and new applications in dispensing doctor areas until any new regulations are brought in, and to ask for an indication of the actions that are expected to follow and a timescale once the consultation has closed on 11 June. Are there any other comments?

**Christine Grahame (South of Scotland) (SNP):** I have a very brief comment to make because the issue has been raised with me. Perhaps one of the unintended consequences in rural areas such as Newcastleton in the Borders is that dispensing GPs get quite a bit of income from dispensing, which allows two or three GPs to be sustained in the area. If they lose that income, the area will go down to one GP. I am not making a special plea for those GPs—it might or might not be the case, but it is their submission. I do not know whether the committee has considered that. Such action might be okay in urban areas, but some GP practices in rural areas are sustained in this way, and there would be a consequential impact on service delivery for patients throughout the area.

**The Convener:** I do not know whether we have had a formal submission on that issue. It might be worth asking for that information to be submitted formally.

**Christine Grahame:** I will ask the GPs to write to the committee.

**The Convener:** That would be helpful. I suggest we continue the petition, knowing that there are still issues to be addressed.

### **Biological Data (PE1229)**

**The Convener:** PE1229, by Craig Macadam, calls on the Parliament to urge the Government to establish integrated local and national structures for collecting, analysing and sharing biological data to inform decision-making processes to benefit biodiversity. The report from the Scottish Government biodiversity science group should have been drafted by the end of last month, and a copy should be sent to the committee in due course.

Do we wish to continue the petition? I suggest that we do so, and that we write to the Scottish Government to seek a note of the outcome of the meeting that took place at the end of January between its science group and the petitioner, and of how those discussions might lead to more appropriate gathering of information and biological data for decision-making processes. Is that okay?

**Members indicated agreement.**

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

**The Convener:** PE1232, by Alasdair Walker, calls on the Parliament to urge the Government to instigate a national civic award—the St Andrew's medal—to recognise those who have committed extraordinary or outstanding acts of bravery. The petition has been in front of us before. Do members have any comments?

**Bill Butler:** Perhaps we should close the petition, convener. Having considered the suggestions, the Scottish Government has agreed that the Brave@Heart and the St Andrew's awards will be awarded at an annual ceremony. The petition has achieved what it set out to achieve. I do not know how other members are minded.

**The Convener:** Shall we close the petition on the ground that there is now some recognition for individuals who have committed extraordinary or outstanding acts of bravery?

**Members indicated agreement.**

### **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 25-year contract with Kilmarnock Prison Services on the design, construction, financing and managing of HM Prison Kilmarnock. Margaret Mitchell has expressed support for the petition on previous occasions. I ask her to make a brief comment.

**Margaret Mitchell (Central Scotland) (Con):** I am aware that it has been a long afternoon for the committee, so I will be brief. When we left the petition, specific answers were to be sought from the Scottish Prison Service on outstanding matters. The answers have now been received, but they merely confirm the case for an independent review. They refer constantly to the contract. For example, on disciplinary processes, I do not understand why the SPS does not just say that it has the ability to withdraw a person's certification. A matter could be resolved amicably internally within the prison by Serco and the management, but the SPS can still come along and withdraw a person's certificate, which means that they cannot be employed as a prison custody officer. I do not understand why the SPS does not simply state that that is the case.

The required level of physical training is set by the contract, but there is no level playing field. Everyone in Kilmarnock must be trained to level 2 in control and restraint, which means that there is the ludicrous situation of a 64-year-old who is on

gate duty having to undertake the training, whereas they would be exempt if they worked in any of the public prisons. It is clear that there are issues about the contract and the key performance indicators that were determined 10 years ago, so it is reasonable that those be reviewed.

We are also not clear what happens to the money that is budgeted for in case Kilmarnock prison reaches 100 per cent on its key performance indicators and there are no deductions or penalties. Where has that money gone? There is a lack of transparency and a need for an audit trail. Ten years on, there is an overwhelming need for an independent and impartial review.

**Nanette Milne:** I seek guidance from the clerk. Is there a locus for us to take the matter further?

**Fergus Cochrane:** Yes. We can write to the Scottish Government again, referring to the points that Margaret Mitchell has made and asking the Scottish Prison Service to review its decision not to carry out a review. Alternatively, the committee could seek to call the minister to give oral evidence again and pursue the issues that way.

**Nanette Milne:** I would like to keep the petition open and perhaps write to the Government again.

**Bill Butler:** We could write to the Government and the SPS again on the issues that Margaret Mitchell has raised. However, we must be careful. We have clear information that the focus of the petition is now a dispute between the petitioner and the SPS over a number of issues in which the committee has no locus. We have to separate that out. I do not have a problem with writing on the issues that we have already rehearsed and on those that Margaret Mitchell has brought before us. However, I am not willing to agree to do anything more than that. If there is a dispute between the petitioner and the SPS, it is up to individual members, whether regional members or the constituency member, to act on the petitioner's behalf. I do not want the committee to get involved in that—it would be the wrong thing to do.

**Nigel Don:** I understand where Nanette Milne is coming from, but I cannot help feeling that we have the answers, although we might not like them. There is little point in asking the same question about a review, when the answer is no. We might not like it, but we have asked the question and heard the answer. To me, the logical action is to close the petition—although perhaps with regrets—because that is the situation that we have reached. It is for others to pursue other avenues.

17:30

**John Wilson:** The interim chief executive's response addresses the point about penalties that I raised at a previous meeting. I am amused by the chief executive's wording where he says that "no income" has been received by the SPS with regard to the penalties. It is clear that the issue is not about receiving income, and no income is received by the SPS from the operators of HMP Kilmarnock but, as Margaret Mitchell said, the SPS retains the moneys that would have been paid to the operators of HMP Kilmarnock if they met 100 per cent of the contract's criteria. Although the letter states that no income has been received, the SPS retains moneys by not paying the full amount of the contract's value because of the perceived failure to meet 100 per cent of the criteria as laid out in the contract.

The response is clear that the SPS is retaining moneys and the word "income" might have been used to sidestep us. We have still not had the answer to the question: what is the SPS doing with the money that is being retained and how is that money being used? If HMP Kilmarnock was operating to 100 per cent of the contract criteria, how would the SPS pay for that if, as at present, the SPS says that it is using all the financial resources that it has to provide prison services throughout Scotland?

**The Convener:** Members have no further comments. We can close the petition if we feel that we have taken it as far as possible, or we can decide whether we wish to write to the minister to ask whether he will review the situation. Does anyone wish to support either of those options?

**Nanette Milne:** I propose that we write to the minister.

**The Convener:** Who is in favour of writing to the minister? I see that two members are in favour of that option. Who is in favour of closing the petition? I see that one member favours closing it and that there are three abstentions. The clerk has had to advise me that such democratic wisdom means that we will write to the minister.

**Margaret Mitchell:** It has been a long afternoon for you, convener.

**The Convener:** It has. Even shadow chancellors get their numbers wrong.

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

**The Convener:** PE1245 is by John Wood and calls on the Scottish Parliament to urge the Government to consider how it ensures the continued independence of self-funded tenants of sheltered housing whose funds and savings are being eroded by increased costs, for example

through the supporting people programme. We have had the petition in front of us on a number of occasions and I know that the petitioner has had it clarified to him that he should not be paying for the same service twice. On that ground, and because the petitioner can contact the Scottish Public Services Ombudsman if his grievance continues, do we agree to close the petition?

**Members** *indicated agreement.*

### **Scottish Courts (McKenzie Friends) (PE1247)**

**The Convener:** PE1247, by Stewart Mackenzie, calls on the Parliament to urge the Government to introduce a McKenzie friend facility in Scottish courts as a matter of urgency. Again, we have had the petition in front of us before. Margo MacDonald is still with us and will speak to the petition. I ask her to be brief.

**Margo MacDonald:** I will be brief, given the lateness of the hour. I assume that the committee has received Consumer Focus Scotland's report on the matter. All I would say is that I support its overview. I should put on record that I have sympathy with the Lord President's desire to ensure that the Scottish court system is as professional and equitable as possible, but I think that he is too protective and is ignoring the evidence of 30 years' practice of McKenzie friends in courts in England and Wales.

I think that the case is proven. Although it is not within our jurisdiction, I do not think that we would behave much differently in the situation, which is what I imagine the Lord President is concerned about. There should be a strong presumption in favour of McKenzie friends and that should be enshrined in primary legislation. However, there should not be an absolute right to it and a judge or sheriff should retain the discretion to determine whether the normal conduct of the court would be hindered or harmed in any way. Proceedings should be enhanced by McKenzie friends.

Finally, I will keep my remarks brief and say that I think that the issue that has been raised by Consumer Focus Scotland—the rights of audience that are given to a plethora of lay people in the Scottish courts—could be examined to see whether the situation can be rationalised and made more understandable. I sincerely hope that the committee will not discontinue the petition, because I believe that it would enhance the rights of litigants in the Scottish courts.

**The Convener:** Thank you. We would like to pursue some matters, so I can reassure you that our inclination is to continue the petition.

**Bill Butler:** We should continue the petition. We should write to the Lord President of the Court of

Session to ask for a response to the concerns that have been raised in the submission by *Which?* magazine, specifically in paragraphs 4 to 7; by the petitioner, particularly in paragraphs 1.1 and 1.2; and by Consumer Focus Scotland. We should also ask the Lord President whether each of these concerns will be addressed in the forthcoming act of sederunt that he intends to introduce and, if not, why not?

**The Convener:** Okay. We want to continue the petition and we will explore those matters. That is a quick way of dealing with the petition and we want to make progress on the matter.

**Nigel Don:** I know that time is against us, but we might try to tease out a couple of issues. First, as I see it, the certificate does not say anything other than, "I understand that this is an important place to be. I understand that I am in court and that there are some responsibilities in respect of receiving information and how I conduct myself." Equally, people seem to be suggesting that the experience is a tick-box exercise that says, "You have not got enough experience, so you cannot be there," but that is not my reading of it. It is simply the case that, as anybody who has ever organised a meeting knows, if you know the skills of the people in the room, and particularly the folk who might advise somebody else, that is generally helpful to the court. There is a certain amount of confusion in some of the comments.

I have one real concern, which comes from reading an e-mail from Families Need Fathers, which points out that, as I had suspected, there are professional McKenzie friends kicking around. I do not know whether that is a good or a bad thing in principle, but I note that the Lord President is suggesting that the lay assistant should not be paid in any way. It seems to me that, if that is a line that he wants to maintain, people will probably find a way around it. I want to ensure that we bring the matter to his attention.

**Margo MacDonald:** Consumer Focus Scotland suggests that the judge or sheriff could ask a simple question—"Are you being paid for this?" If the person tells a porky, he has committed perjury and can be put away for it.

**Nigel Don:** With the greatest of respect, if I may, convener, if the person happens to be paid for by the local citizens advice bureau, he is being paid but he is not being paid by the client.

**Margo MacDonald:** He would have an interest in the outcome, which would count him out. The issue has been covered and you are right that it is dealt with quite simply.

**The Convener:** I do not want to turn this into a "Rumpole of the Bailey" moment—I am showing my age there a wee bit. We will continue the

petition and explore the issues that members have raised.

### **Freight Trains (Overnight Running) (PE1273)**

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

**The Convener:** We come to two petitions that we have grouped together. PE1273, which was submitted by Anne Massie, is on the Stirling-Alloa-Kincardine railway line and the issue of overnight running of freight trains, and PE1302 is by Colin Sloper, who requests that greater consideration be given to the problems of noise and vibration generated by heavy freight. We have had a great opportunity to deal with the petitions before, but there are still some fundamental issues of concern. My biggest worry on behalf of the petitioners and some members is that it seems that no one is taking responsibility for the issues. I am sure that other members will comment on that.

I invite members to comment on what course of action we should take.

**John Wilson:** You are right, convener. You summed it up when you said that nobody wants to take responsibility. It seems that everybody wants to pass it on to somebody else or to the Scottish Parliament, which considered the legislation under which the Stirling to Alloa line was created.

I am interested in the response that we received from DB Schenker about the trains that operate on the line. It states that up to 12 trains a day operate six days a week to run freight from Ayrshire to Longannet power station. However, it does not include the fact that the 12 trains also go back the way, which means in effect that rail freight runs down the line 24 times a day, to the annoyance of the residents—not only residents who live along the Stirling to Alloa line, but every resident who lives adjacent to the line from Ayrshire right up to Longannet power station.

I have made it clear in committee before that I know that night-time rail freight has increased substantially. I do not think that we asked about that last time. There are still questions to be asked of the Scottish Government about how it handles the matter, but questions also have to be asked of Network Rail, because it seems to be saying, “We operate the rail line, but it’s not our fault that freight trains are operating at that level. We’ve got to schedule them in, and if they want to operate 24/7, we’ve got to accommodate that.” It would be interesting to go back to Network Rail and ask whether freight usage of the whole line from Ayrshire to Longannet has increased substantially in the past 10 years, and if so, to what level.

Network Rail argues that it has to consider the other operators that use the lines. There are

clearly issues about the passenger trains that use the same lines as the freight trains. A number of other issues remain unanswered, including the bogies that are used to carry freight and who is ultimately responsible for noise mitigation for residents who live either side of the railway line along the whole route. When DB Schenker was asked whether it was responsible for consulting residents who live adjacent to the line, it replied “No.” Whose responsibility is it? As others have said, there is no responsibility on local authorities to monitor or restrict the noise and vibration that are created by the use of railway lines by heavy freight.

**Bill Butler:** The question is who is responsible. We should write to the Scottish Government to ask whether the Minister for Transport, Infrastructure and Climate Change will organise a meeting of all the relevant parties—or “stakeholders”, as the jargon has it—to find a way in which to minimise the disruption to residents who live adjacent to the railway, and we should ask the minister to update the committee on the outcome of that meeting.

I feel the matter personally because I was the convener of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee and we were given promises under oath. The mitigation that was promised to the committee—which it took at face value—and to the residents has not happened. It is an absolute disgrace that people’s oaths have not been kept. Perhaps a meeting could be held at which heads could be knocked together, metaphorically of course, to try to get some justice for the people who live alongside the railway line. That is just a wee suggestion.

17:45

**The Convener:** We can explore the issues that have been raised. Bill Butler has identified the need to get some direction on the issue from the relevant Government departments and ministers, and the issue of the impact on the local residents.

Do we agree to continue the petition and explore those issues?

**Members** *indicated agreement.*

### **Planning (Protection of National Scenic Areas) (PE1295)**

**The Convener:** PE1295, by Flora Dickson, calls on the Scottish Parliament to urge the Scottish Government to clarify how sites that have been identified as areas of national scenic value can then be considered as suitable locations for the building of crematoria.

Christine Grahame, who has expressed support for the petition in the past, has indicated that she would like to speak.

**Christine Grahame:** The building of the crematorium in the scenic area outside Melrose is an example of the problems that arise around our definition of national scenic areas, what they are for, what value they have, what protection they should have and whether that protection is good enough.

SNH objects to the crematorium being sited in an area of national scenic value. Its website says:

“National Scenic Areas are Scotland’s only national landscape designation. They are those areas of land considered of national significance on the basis of their outstanding scenic interest which must be conserved as part of the country’s natural heritage.”

The Government’s letter to the committee, dated 5 January, suggests that it does not have much clout when it comes to the protection of the areas. It says:

“Ministers do not wish to discourage well conceived development proposals for important infrastructure, economic development, housing or community facilities in such areas.”

National parks have protection, and we know what they are, but we do not know what national scenic areas are. That is demonstrated by what the letter says about environmental impact assessments in the third paragraph on its second page.

Flora Dickson, the petitioner, has done a lot of research on this issue and is guiding me through it. Schedule 1 of the Environmental Assessment (Scotland) Regulations 1999 deals with pretty obvious stuff such as nuclear power stations, in relation to which it is mandatory that applications be made to the Government. However, schedule 2 is interesting. The Government’s letter says:

“All schedule 2 development must be subject to a case by case determination”,

but goes on to say that

“When determining a planning application it is a matter for the planning authority, in the first instance, to determine whether a particular development is of a type listed in the schedules”.

That means that the masters of the planning application also determine which schedule it goes into. In this case, Scottish Borders Council decided that schedule 2, which would have been the more open schedule, did not apply. Further, I am curious about what happens after the first instance. What is the process by which someone can say that something does not apply in certain circumstances?

I will be brief, convener, as I know that you have had a long meeting, but I have another point that I must make. The second paragraph on page 3 of the Government’s letter says:

“I understand that SNH expects to publish its study of the special qualities of each of Scotland’s NSAs in the near future.”

I do not know what progress has been made in that regard since January, but I see that the Government is not prepared to announce a moratorium while the process that we are engaged in is on-going.

We should start paying attention to these national scenic areas. Every member here knows that, once one starts to build in an area, one has opened the door for the possibility that other developments might take place—I put it no more strongly than that.

I think that this issue should be pursued, and that, even though we are at the fag end of the day, it should be given attention. We need to consider what we mean when we talk about a national scenic area, what it is for and whether it has sufficient protection.

**Rhona Brankin:** I think that we should continue our consideration of the petition. There is still a lot of vagueness around the issue of national scenic areas—I speak as someone who has tried to clarify it in the past. We should ask the Government to clarify what additional consideration is given by planning authorities to an objection that is lodged by SNH or the Scottish Environment Protection Agency and whether such objections carry more weight. We should also ask when SNH’s study of national scenic areas will be published and what will happen after that. It would be useful to know whether, other than through this petition, concerns have been expressed by individuals or organisations about the protection of national scenic areas from development and, if so, from whom, what points were made, and what the views of SNH were on the matter.

**The Convener:** Do members agree with those suggestions?

**Members** *indicated agreement.*

### **Further Education (Students with Complex Needs) (PE1180)**

**The Convener:** PE1180, which is by Tom and Josie Wallace, calls on the Parliament to urge the Government to ensure that students with complex needs are supported in achieving further education placements and that appropriate funding mechanisms are provided to enable such placements to be taken up.

Alex Fergusson, in his capacity as constituency MSP, has raised the matter with the committee on behalf of his constituents.

**Alex Fergusson (Galloway and Upper Nithsdale):** Thank you, convener. As other members have mentioned, I am aware that you

have had a long afternoon, and I will keep my remarks as brief as I can.

The petition has exposed the tip of what I suspect to be quite a large iceberg. I noticed with interest that Malcolm Chisholm had lodged a motion on the matter, which I will read. It is entitled "Congratulations to the Finola Education Trust":

"That the Parliament recognises that the Leith teenager, Finola Forman, who suffers from cerebral palsy, has chosen to attend a specialist residential further education course and that such facilities are available only in England; congratulates the Finola Education Trust on raising the £36,000 additional money that was required for the first year of the three-year course on top of the contribution from the City of Edinburgh Council; acknowledges the contribution of Leith FM and many others in promoting the campaign, and believes that teenagers such as Finola should be able to exercise choice concerning the further education that they receive without the need for such extensive fundraising."

The Finola Trust is, essentially, Finola's mother, Henrietta Forman, who is with us today—she has sat very patiently all afternoon. She spends her life fundraising to try to get her daughter the sort of supportive further education that she, and indeed Mr and Mrs Wallace, my constituents, believe is right for their children.

I have only just been made aware of the recent finding by the Scottish Public Services Ombudsman that was largely in favour of a complainant against South Lanarkshire Council over a similar issue.

The situation is a postcode lottery, as I have described it to you before, and the cases that we are dealing with represent the tip of an iceberg. The issues that are inherent in the cases concerned are only just starting to come to light. I do not know what response the committee has had from the Government since it wrote following the previous meeting, but I hope that, if it is any less than satisfactory, the committee will keep the petition open, as there are very serious issues at stake.

**The Convener:** I invite comments from members. We have had a chance to look into some of the details, and I know that Rhona Brankin has expressed views on the issues previously.

**Rhona Brankin:** It is worth continuing the petition. I have not seen the findings from the ombudsman, to which Alex Fergusson referred. I do not think that they are included in our papers, unless I have missed them. I would be interested to see what they are.

I am concerned that we have not had detailed information about what the Government has done in view of the Equal Opportunities Committee's report, "Removing Barriers and Creating Opportunities". The matter is very important, and I

agree that there is a postcode lottery and that the Government needs to provide us with more information on the matter.

**Nanette Milne:** I agree. I certainly think that we should keep the petition open. There appears to be a lack of detail from the Government on the feasibility study by the Scottish Further and Higher Education Funding Council on the creation of regional hubs, which might go some way towards evening out that postcode lottery. We should explore that option a bit further.

**The Convener:** We will continue the petition. We will write and address those concerns. It is a complicated matter, as you and other parliamentary representatives know, Alex. We need to keep chapping at the door to try and get some shift in attitude and resources.

**Alex Fergusson:** It is a drip-drip process.

**The Convener:** Okay. I thank members for their patience.

**Nigel Don:** We are all agreed that the matter needs to be addressed, and we all understand that it is not easy. It is a matter that might want to be delegated to local authorities, but each local authority can think of good reasons, which we all understand, why it does not want to spend lots of money on such things.

The committee must get its teeth into the matter—and keep them there. We have form on this. Some things will give after a while, and we just need to chew this one until something happens.

**The Convener:** We will continue the petition, and we will explore the issues involved. I thank Alex Fergusson for his contribution this afternoon.

### **Haemochromatosis (Screening) (PE1298)**

**The Convener:** Our final petition is PE1298, by George Scott, who calls on the Scottish Parliament to urge the Scottish Government to promote and support the introduction of national screening and a science-based diagnosis to deal with iron overload within national health service primary care.

Do members have any comments? Alex Fergusson previously expressed an interest in this petition as well.

**Alex Fergusson:** Again, the petition originates from one of my constituents. The people of Galloway raise interesting issues, but I assure the convener that that is nothing to do with me. Again, I am not entirely sure where the committee is planning to go with the petition. If I may, I will wait until I hear the committee's deliberations.



**The Convener:** We have considered the petition previously, but there are still issues that we would like to resolve, so we will continue to explore matters. I hope that that helps.

Alex Fergusson is welcome to make final comments.

**Alex Fergusson:** No, I am perfectly happy with that.

**The Convener:** There is no disagreement among committee members that we should continue to explore the issue. Again, we did not know much about the issue until it was drawn to our attention but—to echo Nigel Don's comments on the previous petition—we will try to resolve it.

We will write to the Government with a series of questions on its views on the UK National Screening Committee's recent decision and on the implementation of that committee's recommendations from a number of years ago. We will also ask whether the Government has any other ideas on how to raise awareness of the condition, such as by issuing guidance notes to GPs and medical centres.

## **New Petitions (Notification)**

17:56

**The Convener:** Agenda item 3 is notification of new petitions, which have been listed for committee members. The petitions will come forward in due course for our consideration.

*Meeting closed at 17:56.*



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