



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 8 March 2011

Session 3

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PUBLIC PETITIONS COMMITTEE

6th Meeting 2011, Session 3

CONVENER

*Rhona Brankin (Midlothian) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Cathie Craigie (Cumbernauld and Kilsyth) (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

Jamie Hepburn (Central Scotland) (SNP)

Jamie McGrigor (Highlands and Islands) (Con)

Dr Richard Simpson (Mid Scotland and Fife) (Lab)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Christine Grahame (South of Scotland) (SNP)

Rhoda Grant (Highlands and Islands) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Des McNulty (Clydebank and Milngavie) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Dr Richard Simpson (Mid Scotland and Fife) (Lab)

THE FOLLOWING GAVE EVIDENCE:

John Brownlie (Scottish Government Directorate for Safer Communities)

Keith Brown (Minister for Transport and Infrastructure)

Fergus Ewing (Minister for Community Safety)

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment)

Jill Mulholland (Transport Scotland)

David Primrose (George Street Research)

Ian Robertson (Transport Scotland)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 8 March 2011

[The Convener *opened the meeting at 14:11*]

Current Petitions

The Convener (Rhona Brankin): Welcome to the final meeting in session 3 of the Public Petitions Committee. I apologise for the slightly late start, but there were a few housekeeping issues to deal with.

I ask everyone to ensure that all mobile phones and other electronic devices are switched off.

Item 1 on today's agenda is consideration of current petitions. We will be considering 31 petitions today and will be taking oral evidence on four of them. I remind members that I would like to accommodate other commitments that the three ministers who will be giving evidence have got this afternoon, so I will be time limiting discussions. I ask for brief questions and answers.

Dairy Farmers (Human Rights) (PE1263)

The Convener: PE1263, by Evelyn Mundell, on behalf of Ben Mundell, concerns human rights for dairy farmers.

I welcome Richard Lochhead, the Cabinet Secretary for Rural Affairs and the Environment, and his officials, Martin Morgan and Angela Lawson. To ensure that the minister can get to his subsequent meeting, we will conclude this part of the meeting around half past two. I thank the minister for setting aside time to come to our meeting today.

We also have with us Jamie McGrigor, who is keen to ask a few questions of the minister. I invite him to do so now.

Jamie McGrigor (Highlands and Islands) (Con): For brevity's sake, I will move straight to my questions, of which I have three.

Given that the Government now admits that it considered human rights issues when deciding to continue with the southern isles milk quota ring fence, will it now tell us, in the interests of openness and transparency, what advice it received on human rights and what assessment it made of the issue around introducing a control on the use of property?

When the consultation on continuing the ring fence was undertaken, why were individual dairy farmers not consulted? Did any of the organisations that were consulted consider human

rights issues, competition law and the free market?

Does the minister recognise that my dairy-farming constituents in the southern isles believe that, by continuing with the ring fence, the Government was making them bear individual and excessive burdens for the wider community interest that were not proportionate or in keeping with human rights?

I will stop there, but I have three further questions that I would like to ask after the minister responds.

The Convener: As long as we have time to ensure that members of the committee can ask questions as well.

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): I think that I heard you say that this was the last meeting of the committee this session, convener, which means that it is your last meeting of any committee of the Parliament, so I wish you all the best for the future in your personal capacity.

I am grateful for the opportunity to come along and say a few words today.

In response to Jamie McGrigor's questions, I remind the committee that, following deregulation, Scotland was the only part of the United Kingdom to introduce milk quota ring-fence arrangements, which it did in four parts of the country in April 1993. That ring fence was applied to maintain milk production in peripheral areas, to help to ensure a supply of milk to the remote dairy enterprises. The ring-fence provisions are designed to provide continuity of milk production in that part of rural Scotland, to ensure that local creameries have access to a sufficient volume of raw milk to stay in production.

14:15

I will come on to Jamie McGrigor's first two questions but, in response to the third one, about whether I am aware that farmers in the southern islands who are covered by this particular ring fence believe that ring fencing is detrimental, I have to say that I am not really aware of that, because my understanding is that over the past years—going back to 1994, when this was introduced—the many stakeholders and farmers involved have supported ring fencing. I know that that is not the petitioners' position but the National Farmers Union of Scotland's position and that of other farmers in the ring-fenced areas was that they supported the approach as a means of ensuring that local creameries were viable and of working together to ensure that that was the case.

On Jamie McGrigor's first question on advice, the committee will be aware that, as has always

been the position under devolution, ministers will not give any indication of whether they have taken advice or what the advice was. Of course, we take policy advice and we reach our own policy decisions, but according to convention we do not venture into legal advice, for very good reasons.

Finally, on farmers not being consulted when ring fencing was applied, I have been the minister for only four years so I cannot go back to 1994 when this was introduced; I can only reiterate that when the ring fencing of milk quotas in this part of the country was introduced for what were seen as very good reasons—which I have outlined—it had widespread support because it ensured that milk producers in peripheral areas of Scotland were working together and ensured the viability of local creameries, in this case the Campbeltown creamery and the Arran creamery, which are still operational.

Jamie McGrigor: I disagree with the cabinet secretary. The ring fence was introduced in 1984 and in 1994, when there was deregulation, the whole picture changed. At that point the people who could sell their quota sold it, in some cases, in the 1990s, for 70p or 80p a litre, while those who were forced to keep it finally got it taken into their single farm payment in 2005 at 2.5p per litre.

The Scottish Government has stated specifically that the removal of the ring fence for Islay allowed dairy farmers there to sell quota on the open market and thereby realise income that could be used to support other existing businesses or diversification. Why was it considered appropriate to deny the same right to Mr and Mrs Mundell and the other dairy farmers in the southern ring-fence area?

Richard Lochhead: In response to the question on the timing of the introduction of ring fencing, my understanding of the timetable—I ask the officials to intervene if I am wrong—is that milk quotas, not ring fencing, were introduced in 1984.

Jamie McGrigor: Yes.

Richard Lochhead: You said ring fencing, so I am just clarifying what you meant.

In response to deregulation under the Conservative Government in the early 1990s and the disbanding of the milk marketing boards, it was felt that measures had to be introduced to protect peripheral areas, which is why ring fencing was introduced at that point—after deregulation, which came into force in 1994. That clarifies the timeline and the rationale behind the steps that were taken at various points in the timeline.

I think that your final point was why the same rights were not afforded to those in ring-fenced areas as were afforded to those in other areas.

Jamie McGrigor: I said that the Scottish Government stated specifically that the removal of the ring fence for Islay allowed dairy farmers there to sell quota on the open market, allowing diversification. I am saying that Mr and Mrs Mundell and other dairy farmers further down the coast were not allowed to do that and that they therefore suffered a dramatic loss of money and of human rights.

Richard Lochhead: Notwithstanding the many pressures that for the past decade and more have faced dairy farmers across Scotland, including in Argyll and the southern isles, it is important to note that ring fencing was introduced on certain boundaries to take into account specific circumstances and that where the ring fencing applies can be changed.

In the case of Islay Creamery, which unfortunately closed for commercial reasons, the farmers who were more closely aligned with that creamery were taken out of the ring fencing. Because we still have Campbeltown creamery and Arran creamery, the ring fencing boundary was changed so that the ring fencing still applied to the producers supplying those two creameries. We can adjust where the ring fencing applies, which is why the closure of Islay Creamery removed part of the rationale for the ring fencing in that area of Scotland. However, the reason for retaining the ring fencing for the Campbeltown and Arran creameries remains, which is why there is still ring fencing there, albeit with a slightly different boundary.

Jamie McGrigor: On that point, minister, only 20 per cent of the original dairy farmers in that area now exist, because most of the others have gone bankrupt. Does the minister think that it is acceptable for my constituents and others within the ring fence to continue to produce milk at a loss in the name of subsidising other businesses, namely the creamery, and the wider community?

Richard Lochhead: The member refers to some of the wider pressures facing the dairy sector and the reduction in the number of dairy farmers in one part of Scotland. I do not deny that situation for a second. The dairy sector in Scotland has faced huge pressures for many years. I visited a dairy farm in my own constituency yesterday, and the dairy farmer explained to me that in 1966 he had a dozen dairy cows and made a good living but today he has about 150 dairy cows and makes a substantial loss. That perhaps gives you an indication of the trends in dairy farming over the past few decades. That situation has applied to the member's region and constituency, as it has applied throughout Scotland.

Jamie McGrigor: But at least those in other areas were able to sell their quota and diversify. May I ask one more question, convener?

The Convener: Yes.

Jamie McGrigor: Did the Government at any stage consider the economic impact on dairy farmers in the southern isles' ring-fenced area of not being able, unlike virtually all other dairy farmers in Scotland, to sell or lease out their milk quota on the open market? If so, did the Government consider at any stage compensation for the dairy farmers affected?

Richard Lochhead: I will answer what I can of that question, because we are going back to 1994 when the ring-fencing concept was introduced and implemented. On the adjustments since then to ring fencing in the areas that are covered, a range of factors are taken into account. For instance, when the Islay Creamery closed, the situation facing that remote island community was considered and the decision was taken to change the ring-fencing boundary so that some farmers were able to go into the general market with a quota.

Again, though, the remaining ring-fencing area, which covers the member's constituents and the two creameries that I mentioned before, had widespread support—from the creameries themselves and all their employees, and many of the other dairy producers who supplied the creameries.

It is worth pointing out to the committee that there is a mutual interest among dairy producers to stay within the ring fence to supply the one creamery, because if the number of farmers supplying one creamery was reduced, the creamery's viability could be harmed. That would not be in the interest of the people who still want to supply it, who want to support the creamery and all the employment that comes with that. That is why there is widespread support for ring fencing among many dairy producers.

Jamie McGrigor: Minister, the creamery was not obligated to pick up milk from the farmers in question.

Richard Lochhead: I can only give you the rationale that was used for the decision making on ring fencing.

The Convener: Thank you. Do members have any further questions?

Bill Butler (Glasgow Anniesland) (Lab): Good afternoon, minister. You stated, quite correctly, that Governments of whatever political complexion do not reveal their legal advice. However, the information that committee members and I have is that the advice to Scottish ministers at the time in question on the ring-fencing provisions and human rights was provided by qualified officials who were conversant with the European convention on human rights and associated case law.

Will you tell the committee not what the specific advice was but, in general terms, whether it was a unanimous view or whether opinion was divided?

Richard Lochhead: I cannot answer that question. Ministers take advice and reach a policy decision. On this issue, we have considered the human rights legislation and been made aware that article 1 of protocol 1 of the European convention on human rights permits a state to

"control the use of property in accordance with the general interest".

In reaching a policy decision, ministers can take comfort from looking at the human rights legislation.

Bill Butler: I guessed that that would be the response, given Angela Lawson's emphatic head shaking.

For the record, will you reiterate the main reasons why the Scottish Government considers that milk quota ring fencing is not the most important determinant of a farmer's ability to earn a living?

Richard Lochhead: As I alluded to, a number of factors affect the profitability of dairy farms. Jamie McGrigor might dispute this, but I have looked into the issue and am unaware of any other dairy farmers who have approached us asking for the same outcome as the petitioners. I believe that 40 or so dairy farms supply the Campbeltown creamery and that 30 or 35 supply the Arran creamery. Those dairy farms will take into account a number of factors in running their businesses—some diversify and some do not. The fact that none of them has approached us on the issue tells me that they feel that the ring fencing is in their interests generally. I have not been contacted by other dairy producers with similar views to those of the petitioners.

The Convener: I ask Jamie McGrigor what contact he has had with other dairy farmers.

Jamie McGrigor: I have spoken to several dairy farmers about the issue and I can assure the minister that the people who are presenting the petition are not the only ones who are affected by the ring fencing and who cannot sell their quota for 80p per unit, as it is now worth 0.35p per unit.

The Convener: I must bring the questioning to a close, as we need to discuss where we go with the petition. I seek members' views on our options.

Bill Butler: We are grateful to the cabinet secretary for coming and for his evidence. This is the committee's last meeting, so there are two alternatives. One is to close consideration of the petition, but I am averse to that. Instead, we should suggest to our successor committee in our legacy paper that it should pick up the issue,

particularly given that the advice that we have is that the Scottish Government will undertake a review of the ring-fence provisions in 2012 in advance of the planned abolition of the milk quota regime by the European Council in 2015. The issue is still a live one and, for the petitioners, it is important and serious. Including the petition in our legacy paper would enable the petition at least to stay alive, and if our successor committee so wished, it could take it up at the appropriate time, which might be in the lead-up to the review in 2012. That is not wholly satisfactory, but it is the only thing that I can think of to keep the petition alive.

14:30

Robin Harper (Lothians) (Green): Sorry, but I disagree with Bill Butler. The petition is fairly narrow in that it asks the Government to

“accept that individual dairy farmers have human rights and that these have been breached by the operating rules of the ring fencing mechanism”.

The Government has clearly told us that farmers have human rights, but in the Government's opinion they have not been breached. It is not for us to make a judgment on that rather thorny legal question—that is for higher powers. If the petitioners are to get any satisfaction, the issue would have to go to a higher court: the European Court of Human Rights. We cannot refer the matter to that court, so it is up to the petitioners to do that. The Government has made it perfectly clear that it does not accept that there has been a breach of human rights. What more can be achieved by keeping the petition alive for the Government to tell us again that it does not accept that there has been a breach, which is the logical extension?

Nanette Milne (North East Scotland) (Con): I agree with Bill Butler's suggestion, particularly since the review will include a full public consultation exercise, which might well bring forward the other dairy farmers from whom we have not heard. That might give a more balanced picture of the overall situation.

The Convener: We have two diametrically opposed suggestions. Are there any more views?

Anne McLaughlin (Glasgow) (SNP): Last week, we closed some petitions on the basis of what they actually asked for, despite the fact that further developments were to come. In doing so, we advised the petitioners to produce a different petition when those developments occurred. I agree with Robin Harper. There will be a review in 2012 and there is nothing to prevent someone from lodging a different petition at that time. I am not sure that we can do anything more on what the petition asks for.

The Convener: Given that the petition is specific and that there are two differing views on the extent to which other dairy farmers are affected, it might be most appropriate to close the petition, but to contact the petitioners—they are in the public gallery today—to suggest that they lodge another petition that is slightly wider in scope. If other people are affected, they might want to be part of that future petition. I do not know, but I just throw that into the discussion.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I agree with the convener. The Government's response has answered the questions in the petition. The Government clearly does not believe that individual human rights have been breached by the operating rules or that the rules operate unfairly against the petitioners. However, Mr and Mrs Mundell have put an awful lot of work into the petition and have raised awareness—certainly with me—of the issue and of other issues that need to be considered. The Government says that it will review the ring fencing in 2012, but that is a long time to leave the pressure on Mr and Mrs Mundell to keep going.

We would perhaps welcome another petition on the issue in the next session of Parliament. Mr and Mrs Mundell and some other people could run with the issue to keep the pressure on the Government for a review and to ensure that dairy farmers are involved and consulted when the review takes place. There is generally a period of time before a review when the ground rules are set on issues such as what will be reviewed and what questions will be asked. That would be an opportunity for Mr and Mrs Mundell and others who are similarly affected to set the agenda. On that basis, I recommend that the existing petition be closed, but I advise Mr and Mrs Mundell not to give up.

The Convener: We have heard a mixture of views. I think that we are swinging towards closing the petition. I am conscious that Mr Lochhead has to get away. We need to reach our conclusion. Are you okay to stay for another minute or two, minister?

Richard Lochhead: Sure.

The Convener: Keith Brown, the Minister for Transport and Infrastructure, is coming before the committee after you, minister. He, too, has big time pressures on him. I call Robin Harper, but ask him to be brief.

Robin Harper: May I ask Jamie McGrigor a very quick question?

The Convener: We do not have time for that.

Jamie McGrigor: I will give a very quick answer, convener.

The Convener: We are literally at the point of having to make a decision. We are in a situation

where it is not appropriate for witnesses and committee members to ask questions of each other.

Bill Butler: It seems that the majority of the committee are going for closure. The issue will not go away; Mr and Mrs Mundell know that. I have a suggestion for them. Perhaps they could quickly lodge a similar petition with other supporters in the new session of the Parliament. I hope that they find that suggestion acceptable.

I will not divide and I will not press.

John Wilson (Central Scotland) (SNP): Given the work that the petitioners have put into the petition, it is only fair that, in closing the petition, we should approach the Government asking it to consult fully the petitioners on the issue. We should ask it to hear the issues that the petitioners have raised and consider the answers that have been given thus far.

The Convener: Thank you. I propose that we close the petition on the grounds that we have discussed and with those provisos. Are we agreed?

Members *indicated agreement.*

The Convener: I thank the cabinet secretary and his officials for their attendance.

Richard Lochhead: Thank you.

School Bus Safety (PE1098 and PE1223)

The Convener: PE1098 and PE1223, on school bus safety, are from Lynn Merrifield and Ron Beaty. I welcome Keith Brown, the Minister for Transport and Infrastructure and his officials Jill Mulholland and Ian Robertson. I am conscious that you need to get to another committee, minister. We promise that we will not keep you back. We hope to finish the evidence by the back of three o'clock.

Bill Butler: Good afternoon, minister and colleagues. On 26 October 2010, Mike Penning MP said that the UK Government could

“devolve powers on school transport if the Scottish Government wished to take competence on that.”—[*Official Report, Education, Lifelong Learning and Culture Committee*, 26 October 2010; c 2954.]

What progress has been made on the idea of a formal request for devolution of those powers?

The Minister for Transport and Infrastructure (Keith Brown): If I may, convener, I will answer the question by way of a couple of opening remarks. I understand the committee's frustration about the time that it has taken to progress what appears to be the straightforward offer that Mike Penning MP made for the Scottish Parliament to obtain powers that have been given to the

National Assembly for Wales. As well as being delayed by the severe winter weather issues that commanded some priority, the matter has thrown up a number of legal complications—not least because of the different constitutional and legislative frameworks in Scotland and Wales. That said, perhaps those differences have narrowed as of last week.

I have written to Mike Penning accepting his offer in principle, and subject to discussions between the legal and policy teams of the UK Government and the Scottish Government. Some complicated legal issues arise. Finding exactly what power was devolved to the Welsh Assembly, and what it enabled the Assembly to do, sounds obvious but has not been easy. Of course, the Welsh Assembly's relationship with Westminster is different from ours, but further discussions between the legal and policy teams are going ahead.

It took a long time to set the call up, because we seemed to miss each other a lot, but I have spoken to Mike Penning on the phone. I do not think that there is much difference between us, and I told him that we wanted to pursue the issue. The phone call has since been followed up in writing, although, as I said, some legal and policy work remains to be done.

I have co-signed a further letter with Mike Penning with regard to what councils can and cannot do under existing legislation on the safety of school transport. That letter signposts again the guide to improving transport safety that was published by Transport Scotland on 20 December.

To sum up, we have accepted the offer and are now working on it.

Bill Butler: I know that this will be a difficult question to answer, but what approximate timeline does the minister envisage for getting the discussions between the legal and policy teams over and done with, and for making progress with devolution of the powers?

Keith Brown: The discussion should not be held up by our election, because officials can continue to work on it. Further work will depend on the new Parliament and on who takes up the work after the election. However, I think that three things could be worked on together. First, the general guidance on road safety can tighten up the current provision.

Secondly, we could in the meantime tackle the issue through existing legislation; I believe that section 51 of the Education (Scotland) Act 1980 allows local authorities to insist, in the contracts for school transport, on the provision of seat belts, with some caveats. However, not providing seat belts could not be made an offence, so there could be no prosecutions.

Thirdly, there is devolution of the powers. The legislative process for devolution of powers cannot commence until after the election, and work would be required at Westminster as well. However, other things can be done in the meantime. After our election, I imagine that we could move forward fairly briskly.

Bill Butler: I am grateful to the minister for that answer.

Nigel Don (North East Scotland) (SNP): Good afternoon, minister. Many points have been made in relation to this issue. Are there any with which it will not be possible to make progress because of the legal complications? The area is wide, but is there hope that in Scotland we can make progress on signage and seat belts, for example?

Keith Brown: There are some issues on which we cannot make progress. The officials can flesh this out if necessary, but Westminster has said that it will not devolve traffic legislation. We are therefore not looking to make progress with the prohibition on overtaking—a point that has been made clear previously. However, we are looking to make progress on signage and all the other issues. Some very good examples of signage have been used in Aberdeenshire, for example. We want to tighten things up and ensure that the disparities that appear to exist among local authorities reduce gradually over time. I think that my children, for example, still travel on a school bus that does not have seat belts. By using the Education (Scotland) Act 1980, we might be able to make progress with seat belts very quickly, although not to the point of making it a crime to fail to provide them. However, we could do that subsequently. The officials will correct me if I am wrong, but we are not pursuing the plans on overtaking.

Jill Mulholland (Transport Scotland): That is right. The offer is not the devolution of road traffic legislation on issues such as overtaking. However, at this committee, Mr Penning said that he was minded to consider the signage and lighting restrictions from a UK point of view. We were content with that. In addition, we believe that standards on school buses were in Mr Penning's offer.

Nigel Don: Mr Penning has other things on his plate, but when he gets time to think about it, there is the prospect of UK-wide legislation to change some things.

14:45

Keith Brown: That is right. It would require legislation to insist that all buses had seat belts rather than legislation to insist, for example, that only buses that had been built since 2001 could be used. However, seat belts would involve us in road

traffic legislation that is not devolved and which Westminster has said it is not keen to devolve. Such proposals are not immediately in prospect. However, we can tackle the seat belt issue in two different ways, progress the signage and lighting aspects ourselves through guidance just now, and wait to see what Westminster does following its examination of the issues.

Cathie Craigie: Can the minister expand on why we are not pursuing the proposal on overtaking school buses? I know that legislation on that is reserved to Westminster, but tragedies have occurred because vehicles have overtaken school buses and knocked down individuals. Petitioners have brought the suggestion on overtaking to us in the Scottish Parliament, but it is surely a UK-wide issue. Have you had discussions with your UK counterpart about introducing UK legislation in that regard?

Keith Brown: I cannot speak for my predecessor, but I have not spoken about that specifically with Mike Penning. We ranged across a number of different subjects, but not that one.

Our feeling is that there is an attraction in doing what the member suggests, but that some of the problems that we would encounter could militate against it. For example, I heard that in New York alone there are 70,000 transgressions of a similar overtaking rule every day—I think. Anyway, there are frequent and regular transgressions of the rule.

If we had a rule that did not allow traffic to overtake a school bus in certain circumstances, and people—children in particular—came to rely on that rule but it was regularly transgressed, we can envisage what would happen. The culture in this country on these matters is perhaps different from that in Canada and the US, which are the two areas that I am aware of that currently have an overtaking rule. We also have a different kind of road network. So, it is for practical reasons rather than legislative competence ones that we are not looking to progress an overtaking rule.

John Wilson: As I understand it, local authorities can impose outside schools 20mph zones as well as zig-zag no-parking zones. Could not the power be transferred to local authorities to impose no overtaking outside schools? Local authorities currently have the power to make particular designations outside schools, so surely they should be given the power to ensure that no overtaking takes place outside schools.

Keith Brown: I think that I am right in saying that in the two examples that you gave the powers had to be devolved to local authorities, so that would have to be done for a power to ban overtaking, too. However, as I understand it, we do not possess such a power, so we cannot pass it

on to local authorities. Perhaps you are suggesting that we could ask Westminster to pass such a power to us so that we could pass it on to local authorities. The practical objections that I mentioned would remain, however. In any event, I am told that Westminster states that it is not looking to devolve any road traffic legislation just now.

John Wilson: If Westminster could devolve powers in relation to 20mph zones and zig-zag no-parking zones, surely it could go one step further and help to stop overtaking outside schools, particularly when children are being dropped off and picked up. However, if the UK Government is not prepared at the moment to devolve further powers to local authorities in Scotland in that regard, perhaps this Parliament can take that up after the election.

Nanette Milne: I presume that the problem is not just around schools and that it must also be a problem when a child gets off a bus at their destination. The law would therefore have to cover the situation not only outside schools but throughout the road network.

Keith Brown: In theory, there is the largest concentration of children around schools, although I imagine that one would want to apply the law more widely. However, our reservations are not just because Westminster does not yet appear willing to give us that power; they are also about practical application of the power.

Robin Harper: The minister talked about the likelihood that drivers would not observe the fact that they should not overtake buses. Of course, it is not only buses that stop outside schools—it is mainly cars. Too few children walk to school, which would be the safest form of transport for them. Would the Government consider a speed limit of as low as 10mph outside schools, which I think would give absolute safety to everyone?

Keith Brown: I am being passed some information. From memory, the twenty's plenty initiative had to be devolved from Parliament to local authorities. I am not sure about a 10mph limit. I can see the attraction from a road safety point of view, although it is not something that I have considered before—perhaps the officials have. I am not sure whether it is always practical for vehicles to go at that speed, but I am happy to hear officials respond to that suggestion.

Ian Robertson (Transport Scotland): It is difficult for a driver to judge whether he is doing 10mph. The speedometer is not accurate enough.

Robin Harper: In Jersey there are 15mph limits.

Ian Robertson: I think that there is one in Orkney as well. Generally, anything less than 20mph is a bit difficult.

Robin Harper: I will meet you halfway.

The Convener: If there are no more questions, I ask the committee how it would like to deal with the petition.

Bill Butler: We are all grateful to the minister for coming to the meeting. It appears from what he has said that some welcome progress has been made. I hope that as soon as possible after the election any powers that can be devolved to this place will be devolved. That means that we should continue the petition and include it in our legacy paper, inviting our successor committee in session 4 to consider the petitions under those legacy arrangements. That committee could monitor progress, consider what powers have been devolved and consider their impact on the matter of the petition and the wishes of the petitioners.

The Convener: It might be useful for our successor committee to have a note about the possible legal constraints surrounding the issue, because that was new information for us. Is it agreed that the petition will go forward to the legacy paper?

Members indicated agreement.

The Convener: I thank Keith Brown, Jill Mulholland and Ian Robertson for coming along. We have not made the minister late for his next meeting.

Mosquito Devices (PE1367)

The Convener: The next petition is PE1367, by Andrew Deans, on behalf of the Scottish Youth Parliament, seeking to ban the use of Mosquito devices.

I welcome to the committee Fergus Ewing, the Minister for Community Safety, along with his officials, John Brownlie and Scott Wood. I am conscious of the time and the fact that you require to be away, minister. We intend to finish this session by half past 3 at the latest, if that is okay with you. If you had a short statement, you will get a chance to make points from it in response to questions. I am conscious that we are short of time, so we will move straight to questions. I am sure that, in the course of the discussion, you will get a chance to say what you want to say.

Bill Butler: What precisely did you mean, in your letter dated 25 January 2011, when you said:

“we will consider very carefully all arguments made in relation to these devices; the submissions made to the Committee during the course of its consideration; and the proposals put forward by members of the Scottish Youth Parliament that the devices should be banned”?

How, when and with whom will you consider those? We would appreciate more detail.

The Minister for Community Safety (Fergus Ewing): We will consider them with all stakeholders, MSPs, interested members of the public and Her Majesty's Government.

Bill Butler: Scotland's Commissioner for Children and Young People has provided three issues to be considered in respect of the matter, which are set out in the petitioner's letter to the committee of 10 February. What is your response to those issues? Will you take the suggested actions, which are: to work with the UK Government—which has control over the regulation of goods—to achieve a ban; to review whether public sector organisations have responsibility, under the public sector equality duty, to prevent the use of the Mosquito in relation to its discriminating against children and young people, especially those with disabilities; and to review whether the Mosquito constitutes a noise nuisance under the Antisocial Behaviour (Scotland) Act 2004? Will you respond to those three specific issues that have been raised by the SCCYP?

Fergus Ewing: Certainly. In September 2010, I wrote to Theresa May MP and offered to work with her and her officials on the UK coalition Government's approach to tackling antisocial behaviour. We have been seeking to arrange a meeting between our officials, and I propose that the Mosquito device could and should be one of the matters to be covered at such a meeting, whenever Theresa May agrees that it may take place.

In relation to reviewing whether public sector organisations have the responsibility, under the public sector equality duty, to prevent use of the Mosquito in relation to its discriminating against children and young people, especially those with disabilities, I note that the Equality Act 2010 restates, simplifies and, where appropriate, harmonises the various equality legislation. It consolidated the three existing duties on race, sex and disability into a single equality duty that also covers age, among other characteristics. That duty, which will come into force in April, requires a public authority to have due regard to the need to eliminate discrimination, harassment and victimisation, as well as to foster good relations by tackling prejudice and promoting understanding. Some people may say that the Mosquito device fails on a number of those counts. That general duty can, of course, be enforced through judicial review.

On the third issue—review of whether the Mosquito constitutes a noise nuisance under the Antisocial Behaviour (Scotland) Act 2004—I advise the committee that it is up to individual local authorities to determine how to address any noise nuisance complaints that they receive. Each local

authority enforces the legislation in its own area and it is not for central Government to dictate to local government how it should implement its local duties.

Bill Butler: I am obliged.

15:00

Anne McLaughlin: In its latest response, the Scottish Government states:

"We consider that the mosquito device is not consistent with our approach as outlined in Promoting Positive Outcomes and is also not consistent with our desire to create strong supportive communities".

Is that the same as having reached the conclusion that I and the petitioner have reached, which is that the device is wrong in principle, and that if there is a way to rid ourselves of the use of the devices we must do it? Have you reached that conclusion, or is that yet to be decided?

Fergus Ewing: I will be forthright with the committee. The Scottish Government does not support and has never supported the use of the devices. The devices are incompatible with the approach to tackling antisocial behaviour that we have adopted, and it behoves me to say that we do not equate antisocial behaviour with young people. When we talk about antisocial behaviour, we are often talking about people who are as old as I am, or even older than that. To stigmatise young people is plainly wrong, given that the vast majority of young people are a credit to themselves, to their communities and to their parents and display pro-social behaviour.

The approach that my friend Harry McGuigan and I have set out is outlined in our framework, "Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland", which was published jointly by the Scottish Government and the Convention of Scottish Local Authorities in March 2009. We do not see the use of the Mosquito as being synonymous, consonant or consistent with the approach that we have adopted to addressing the minority of young people who get involved in a bit of bad behaviour.

Anne McLaughlin: So, we all generally agree that the Mosquito is a completely undesirable method of—supposedly—tackling antisocial behaviour. We are left with the three main options that the petitioner has suggested, but the two main options for getting a national conclusion to this are that the UK Government might consider the Sale of Goods Act 1979 or that we review whether local authorities have a responsibility under the public sector equality duty—which you just mentioned—not to discriminate, harass or victimise, but to eliminate those behaviours. The Mosquito obviously discriminates against people under the age of 25—as well as my colleague, Nigel Don,

who once heard such a device—and harasses those who hear it, especially children and babies who cannot tell their parents what is wrong with them. It victimises them. So, we are left with the UK Government option or the public sector equality duty. What would you advise is the best way of getting rid of the devices as quickly as possible?

Fergus Ewing: I was impressed by the way in which the petitioner—Andrew Deans, who is a member of the Scottish Youth Parliament—took the matter forward. In giving his evidence, he spoke without using notes, which you remarked on. I also agree with John Farquhar Munro, who pointed out that very young children and toddlers would be worried, disturbed and upset by the noise, which they would not understand, and that their parents would not know what was happening. Those points were very well made by committee members and there was strong unanimity of approach.

It is for the committee to determine the best approach. One route would be a legislative approach, which would require consideration of whether there is a basis for a ban on the device. It is not clear to us that the legislative competence to impose such a ban rests with the Scottish Parliament; therefore, various issues regarding legislative competence would have to be fully explored. Perhaps foolishly, I looked at paragraph C7 of schedule 5 to the Scotland Act 1998, which appeared to be relevant—however, we act not on the basis of my advice, but on that of the Scottish Government legal directorate, and we do not have that advice. Nevertheless, I think that there is a case for a ban. That is a matter that I would want to discuss with Theresa May, to get the UK Government's views. There may be an argument that more evidence is required, especially if we move from a position of general disapproval—to a ban, which is a step on which other views would be needed.

I have given some thought to—and am happy to run through, if the committee would find it useful—other areas where work might be needed. The committee or, indeed, Parliament would be free to take that work forward as it saw fit and in the manner that Anne McLaughlin has highlighted.

The Convener: The committee would be keen to hear about that, but I think that Cathie Craigie has another question.

Cathie Craigie: I am glad to hear that the minister is going to continue the discussions with his Westminster counterpart, because it would be good to have a UK-wide solution to this. However, I believe that, under the Antisocial Behaviour etc (Scotland) Act 2004, local authorities and the police have the power to seize noise-making equipment from premises. As the Mosquito is a

piece of noise-making equipment—even though those of us just over 25 cannot hear it—I wonder whether it would be covered under the 2004 act.

Fergus Ewing: John Brownlie is more familiar with that part of the act. Would it be in order for him to answer that specific question, convener?

The Convener: Yes.

John Brownlie (Scottish Government Directorate for Safer Communities): As you have said, Ms Craigie, powers exist to seize noise-making equipment. However, when I discussed the issue with a local government colleague who is the head of a noise team, he indicated certain difficulties in that respect, simply because of the problem of detection. If, for example, I were to walk past this thing, I would not in all likelihood know that it was there. If the minister was happy for me to do so, I could certainly explore the matter further with our local government colleagues who, as he has pointed out, are responsible for exercising these powers.

Cathie Craigie: I take John Brownlie's point about problems with detecting this equipment. However, younger people have been used to implement other legislation, for example by being involved in test purchasing. Could there be some combination in that respect?

John Brownlie: I will certainly discuss that with our local authority colleagues.

Nigel Don: I certainly invite the minister to make his suggestions about the way forward because, to be honest, I think that they would be helpful. Before he does so, though, I point out that I know that the device that I mentioned the last time we discussed this matter is still there, because I deliberately drove, then walked, past it yesterday. However, either it has been changed or it has rectified itself because, when I first got to the place in question and wound down my windows, I thought, "Mmm—it's off." Then I heard a much fainter very high-pitched squeal. If we stopped and, rather than smelling the roses, used our ears and listened, we might be able to hear these things.

That said, I also asked the readership of *The Press and Journal*, which is reasonably widespread over the north-east, to let me know whether they had found any of these devices. I have not yet received any replies. It might be that youngsters do not read *The Press and Journal*, but it might also be that there are simply not many of these things around.

As I said, I am interested to hear the minister's suggestions on how we might take this forward. After all, he knows the context far better than we do.

Fergus Ewing: I read in the *Official Report* of the committee's previous discussion of this matter that Mr Don had experienced one of these devices when he was out canvassing. Sometimes you get more than you bargain for when you undertake such activities.

As John Brownlie has alluded to, my officials have, in an attempt to obtain more information about the extent of the use of the device across Scotland, contacted antisocial behaviour practitioners across Scotland through the practitioner network. Of the 20 who replied, all were aware of the device and six were aware of its use in their area; three out of those six said that the use was historical. From that limited canvassing exercise, the extent of the device's use across Scotland seems limited and sporadic, as far as local authorities are aware. Several respondents made it clear that they did not consider using the device to be in line with their approaches to tackling antisocial behaviour. I hope that that information is of use.

I will now respond to Nigel Don's first point, which I was invited to deal with second and which was on organisations that we might wish to ask again or for the first time for advice and information. I understand that several organisations did not respond to the committee's request for information, such as the National Autistic Society, the Royal National Institute for Deaf People, the Association of Scottish Community Councils, the Federation of Small Businesses and COSLA.

I have obtained information from officials that suggests that the evidence might point in different directions—it is not all one-sided. For example, I understand that a senior audiologist—Angela King of the RNID—said:

"The 'Mosquito' emits a very high-pitched sound (16.5-17kHz) that is just within the range of human hearing for young people but will not be heard by most people over the age of 25.

As we get older we gradually lose our hearing—and we lose it from the high frequency end of the sound spectrum first."

She added the interesting point that

"We understand that the sound from the 'Mosquito' can become extremely annoying to young people, but is not at a level that will cause any damage to hearing."

Depending on the approach that one pursued in considering whether a ban might be justified, if the issue were within devolved competence and if the purpose were to protect health, it would follow that evidence on whether the devices are injurious to health would need to be taken from a variety of sources. I would think that the lady whom I just quoted is one such source.

I know that evidence has been obtained from other sources and I in no way deprecate the committee's substantial efforts, which have resulted in extremely useful evidence. Nonetheless, I say with respect that, if members were inclined to investigate further whether the issue is within devolved competence and if the purpose were protecting health, more evidence would plainly be needed.

For completeness and in the interests of applying the second principle of natural justice, which is to hear the other side of the case, it would be useful to seek further views from the device's manufacturer, Compound Security Systems, from Merthyr Tydfil in south Wales. Any decisions could have implications for jobs and it would only be fair to the company's employees that they and their employer should have the right to offer their views. It would also be useful to have the manufacturer's views on the device's legality and its use in other countries. As we might expect, the company argues on its website that the device is not injurious to health. I make the point in passing that, if one's approach to the issue is to consider whether we should ban the device, obtaining more evidence might be useful.

I appreciate that we are close to the end of the parliamentary session. I can only speculate on whether I will achieve my first date with Theresa May before we go into purdah.

The Convener: I am sure that she will be terribly disappointed if that does not happen.

Anne McLaughlin: I know that the election is coming up but, if it were not and if we were carrying on as normal, what would the Scottish Government do? I take it that your suggestions for taking evidence were for the committee to pursue. You said that you were trying to have a meeting with Theresa May, at which you have asked for the device to be on the agenda. However, I have asked her to do things and she has said no. That meeting cannot be the only way forward.

The main issue was not health but discrimination and abuse to the ears, whether or not it affects people's hearing. If Theresa May said no to a meeting, what would be the way forward? Would a two-pronged or three-pronged approach be taken? We want to pass on to the petitioner what will happen. We can say what the committee will do, but what options is the Scottish Government considering pursuing?

15:15

Fergus Ewing: We recognise that the United Nations Convention on the Rights of the Child must be considered in this case. The committee has looked into that. Article 15 clearly recognises the right of children and young people to freedom

of movement and peaceable assembly. We strongly support that right, but the article also recognises that the exercise of such a right should not impact on the protection of the rights and freedom of others. Like Anne McLaughlin, we are particularly concerned about the indiscriminate use of Mosquito devices, which can result in young people under 25, from the newborn to young adults, being treated as a nuisance regardless of their behaviour. We could not support such indiscriminate use of the device, which affects everybody irrespective of whether they are doing anything that anyone would see as objectionable.

I mention that rights aspect simply because I know that the committee has considered it and it is part of the relevant statutory overlay. However, I think that there could be, to coin a phrase, a third way, which would be to consider how to regulate the use of the device. That could be done either by the Scottish Parliament acting alone or by our acting with Westminster. For example, a mechanism could be established to ensure that the device's use was responsible and proportionate. Some may argue that that is not possible. Others, including the Scottish Grocers Federation, have argued that it is a useful device but only as a last resort to deal with difficult situations. The committee could weigh up the argument in that regard.

It may be possible to provide regulations on who would be authorised to use the device. In other words, there could be a licensing provision so that, for example—I just suggest a possibility here rather than an approach that we have adopted as our view or policy—police officers would be the only people who were authorised to use it. More widely, security officers who were properly regulated, as they now can be, could be so authorised. Alternatively, there could be a combination of regulating the person—that is, restricting the people who would be entitled to use the device—and restricting the purpose. Both person and purpose could be the subject of regulation.

Those matters are worthy of consideration, as we have reached no fixed view on the issue. Again, though, I would hope that the Scottish Government could consider them with Her Majesty's Government in due course, whether in this parliamentary session or early in the next one. I would want that to happen, were I in a position to do anything about it.

Anne McLaughlin: One of the petitioner's suggestions was that the Government could review whether public sector organisations have a responsibility on this issue under the public sector equality duty. Will you ask your officials to look into that as an option? That would seem to be the

clearest way forward. I find it difficult to understand the argument that the device does not discriminate, harass or victimise young people.

Is the minister aware of how the Co-operative Group dealt with groups of young people? I do not necessarily approve of treating all young people the same but, when groups of young people were hanging about outside Co-op stores and they wanted rid of them, they played classical music, which was very effective in that regard. No one was dreadfully upset; it was just that the music did not match the young people's taste.

Fergus Ewing: I am happy to give an undertaking to look into the general question further. However, it is likely that I may be advised that, in doing so, it would be necessary to obtain more evidence as part of the process. The equality duties that I described earlier—namely, *inter alia*, the duty to have due regard to the need to eliminate discrimination, harassment and victimisation—would suggest that there may be a *prima facie* case to consider. Whether a case could be made out in evidence would, I think, take a great deal of investigation. However, I am happy to ask my officials to consider the issue and obtain more detailed answers than we could give today about whether, as Anne McLaughlin suggests, the equality duties might be a route and a remedy.

Anne McLaughlin: Will you consult the petitioner, who is currently doing a lot of work on that anyway and might be able to help to provide some of the evidence?

Fergus Ewing: I would be happy if the petitioner, and anyone else who has an interest, wishes to contact us with their views on the matter. However, from my reading of the *Official Report*, Mr Deans has already done a fairly good job of putting his views to the committee with great passion and clarity.

The Convener: I understand that Mr Deans is watching the meeting on the television so I am sure that he has heard that invitation.

John Wilson: The issue for me is that the use of the devices is unknown. We do not know how many retailers, shopping malls or private individuals are using them. Until we know the extent of their use throughout Scotland, we will remain unclear about how to advance the issue. It sounded as though the Mosquito device that Nigel Don mentioned hearing was in a residential estate. The devices can be and are being sold to private individuals for use outside their houses or business premises.

If the minister is prepared to take the issue forward, will he give us some assurance—although I am not sure how he will be able to deliver on it—that, in consultation with local authorities and the police, he will try to determine

how many of the devices are in operation in Scotland so that we have a good estimate of how widespread their use is and what the impact is?

I have to take issue with the minister on protecting young people and how they get their message over. How do we ask a two-year-old who is disturbed by a Mosquito device that is emitting a high-frequency sound about their views and experiences? How does that two-year-old explain those views and experiences fully to the people who use the devices or the local authority environmental health officers who are supposed to monitor noise pollution in their areas?

Fergus Ewing: John Farquhar Munro made the point earlier that young children, such as two-year-olds and toddlers, may well be disturbed, distressed and upset when within hearing range of a Mosquito device but their parents would not necessarily know why they were distressed. As I think I made plain earlier, that was a very good point. I agree with that point; I do not intend to contradict it or take a different view.

On how many Mosquito devices there are and what we can do to ascertain the extent of their usage, I have run through the evidence that we obtained from the inquiries that we already made, largely because of the petitioner's pleadings and the committee's exhortations to find out from local authority antisocial behaviour practitioners how extensive usage is. Among 20 respondees, there was limited evidence of usage and much of it was historical. That appears to suggest that usage is limited.

We would expect that, were usage widespread, it would lead to complaints. I am pretty sure about that. The views expressed by members of all parties on the committee would be shared by a great many other people in Scotland. We would also expect antisocial behaviour practitioners to be aware of extensive usage and expect it to emerge in the local press and in local debates throughout the country.

Through logical deduction, that suggests to me that usage is, happily, limited. However, Mr Wilson makes the point that we do not have evidence. I suspect that we could obtain it with some difficulty. It might not quite be a fishing expedition, but it would be something quite close to that and I would be a bit wary of giving any specific commitment today. That is not to detract from Mr Wilson's point. It is important to know how widespread the usage of Mosquito devices is, but it may be difficult to find the answer to that question. The earlier, primary questions are who has the power and how it can be employed; and how we go about working with Her Majesty's Government and whether it would not be better to act across the UK. Of course it would be best to serve all the peoples in the UK in finding a fair solution.

Those high-level issues of principle and politics are, perhaps, the ones that we could advance early in the next session of Parliament. I hope that that will be the case, irrespective of who sits in my chair and who sits in the committee's chairs.

The Convener: I will not be sitting in this chair.

I ask the committee for views on what to do with the petition.

Nanette Milne: There is no doubt that we should continue it. The minister has made some helpful suggestions that we could follow up and I suggest that we go with those in the first instance.

The Convener: Does the rest of the committee agree?

Members indicated agreement.

The Convener: We will continue the petition and it will go into the legacy paper for the successor committee.

I thank the minister for attending and for being helpful and constructive. I also thank Scott Wood and John Brownlie.

Under rule 7.4.1 of standing orders, I suspend the meeting of the committee. We will suspend for approximately 10 minutes. If members of the public clear the gallery, we will call them back in when we restart.

15:27

Meeting suspended.

15:46

On resuming—

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

The Convener: PE812 is by Caroline Paterson on behalf of Stirling Before Pylons. Richard Simpson is here to speak to the petition. Please be as brief as possible.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I will be brief. I realise that the committee is under considerable pressure.

I will make a case for continuing the petition, although I would not have envisaged myself doing that a year ago. As far as I know, we still have not had a decision on the mitigation measures that Scottish Power has, I think, submitted to the minister. If we had had a decision, it would have been game over. However, as time progresses and no decision is made, new information keeps coming in.

I have little to add to my previous submission about the health grounds, except to say that almost all the new pylons for the London Olympics are now being undergrounded, which was not going to happen before. Also, I draw the committee's attention to the compromise proposal that was submitted by Friends of Ochil, which indicates that the length of undergrounding that might be acceptable could be shorter. The system would involve having pylons on either side of the escarpment and then undergrounding across the carse at Stirling. That would be a simpler measure.

Unless we get a decision in the next couple of weeks, it will remain a very live issue and I hope that the committee will consider the possibility of continuing the petition.

The Convener: It is open to committee members to express their views. I am conscious that we have received very specific evidence on the Beauly to Denny power line, which the petition does not mention—it is broader than that.

Bill Butler: Until I heard what Richard Simpson just said, my inclination was to suggest that we close the petition. I thought that the committee had done as much as it could. However, having heard that no decision has yet been made on the proposals for mitigation measures that Scottish Power has submitted to ministers and that there has been no response to the compromise that has been suggested by the Friends of Ochil, I suggest that we include the petition in our legacy paper. We cannot guarantee it, but it may be a matter that our successor committee will take up.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I agree with Bill Butler. That is what we should do.

The Convener: Does the committee agree that the petition be included in our legacy paper to be considered and possibly taken up by our successor committee?

Members indicated agreement.

Democratic Process (Young People) (PE1065)

The Convener: PE1065, by Rajiv Joshi, on behalf of Young Scot, is on the issue of new technologies and engaging young people in the democratic process. I seek committee members' views on the petition.

Nanette Milne: The petition has achieved its aim, to a large extent. The committee has held an inquiry into the public petitions process and there have been various developments such as podcast versions, leaflets in different languages, video, the creation of a British Sign Language version of the video in consultation with the Scottish Council on Deafness and a blog. There have been a lot of developments in the petitions process and I hope that the petitioners are reasonably happy that we have achieved a lot of what they wanted. I therefore suggest closing the petition.

The Convener: Is it agreed that, in the light of the substantial developments relating to the petitions process, we should close the petition?

Members indicated agreement.

The Convener: I thank Rajiv Joshi, who is a constituent of mine, for the hard work that he put into the petition and commend him for the substantial developments that have arisen out of the petition.

St Margaret of Scotland Hospice (PE1105)

The Convener: PE1105, by Marjorie McCance, is on behalf of St Margaret of Scotland hospice. Des McNulty is with us to speak to the petition.

Des McNulty (Clydebank and Milngavie) (Lab): I thank the committee for its consideration thus far of the issues around the St Margaret of Scotland hospice. I am also grateful to Marjorie McCance and Jean Anne Mitchell, who are behind the petition.

The petition has two strands to it. The first is to do with the funding arrangements for hospices and the perceived inequity in the amount that each hospice gets per patient. We were told that a review of hospice funding would be completed by December 2009, but there has been no sign of it. We were told that the matter had gone back for further consideration, but we are now 15 months

on and the findings of the review have not been published. The review has been conducted, but its report is in limbo. On that ground, I ask that the petition be continued.

The second strand of the petition is to do with the treatment of the St Margaret of Scotland hospice by NHS Greater Glasgow and Clyde in relation to continuing care beds. Continuing care was meant to be concentrated in the Blawarthill unit, which was to be developed by a consortium, but that development is apparently no longer to proceed. The health board now insists that there will be a review of provision, even though it was previously prepared to go ahead with the Blawarthill development in the absence of a review. All that has changed is that the development of Blawarthill, in respect of continuing care, is no longer to proceed. I would like the minister to make an early decision on the issue, as there are a lot of concerns about the unsatisfactory behaviour of NHS Greater Glasgow and Clyde over the past three years. It has batted the issue of St Margaret's off and has treated the hospice dreadfully regarding the presumption that facilities would be centralised at Blawarthill. Now that that development will not proceed, the health board is still not prepared to make any commitments in relation to St Margaret's. On that ground, too, I would like the petition to be continued.

I do not think that the petition will be continued for very long after May. I hope that the next petitions committee will be able to resolve the issues to its satisfaction relatively quickly. In my view, now is not an appropriate time to close the petition, so I hope that you will include it in the legacy paper for the incoming committee.

John Wilson: I thank Des McNulty for his comments. On the basis of those comments and our paperwork on the petition, I fully support the inclusion of the petition in our legacy paper. I am disappointed that NHS Greater Glasgow and Clyde has been so intransigent. Some of the evidence that we have received, especially from Jean Anne Mitchell, suggests that the chair of the health board's view on meetings with representatives of St Margaret's is not their understanding of events. I therefore think that it is incumbent on us to include the petition in our legacy paper in the hope that the issue can be resolved almost immediately, as Des McNulty said.

I put on record my disappointment and concern that NHS Greater Glasgow and Clyde does not seem to have wanted to engage in a meaningful way with the St Margaret of Scotland hospice—or other hospices, as we know from petitions that we have dealt with over the past four years. It will be useful to continue the petition and hope that

developments over the intervening period will mean that, when the petition comes back to the committee, the issues will have been resolved. I am disappointed that we are still at this stage with the petition.

Bill Butler: I agree with John Wilson that there is sufficient still to do that we should include the petition in our legacy paper in the hope that our successor committee will take it up. The perceived inequity in the funding arrangements for hospices has been considered by a review but, as Des McNulty said, the review is yet to publish its recommendations. We need to know when those recommendations will be published—that work is on-going.

I also agree with Des McNulty, in whose constituency the St Margaret of Scotland hospice is located, that there must be an early decision by the minister, whoever that is after the election. However, as the member in whose constituency the Blawarthill unit is located, I have to say that it was earnestly hoped that the Blawarthill development would go ahead. I register my disappointment that it will not go ahead. It was never going to be a mutually exclusive arrangement—the one facility was not set against the other. That was never the way in which it was perceived, nor—to be fair to Des McNulty and others—was that ever the way in which support for the St Margaret of Scotland hospice was generated. The hospice generates its own support through the great work that it does. Nevertheless, I register my disappointment that, at the moment, the Blawarthill development is no longer to go ahead—it is in limbo, if I may use a theological expression. I do not know whether there is still a limbo, but that is where the development is and I am disappointed at that.

Robin Harper: The committee has considered the petition fully 12 times in three years. It has considered 43 submissions and has heard from local members on nine occasions. If we are to continue the petition and include it in our legacy paper, we should make it clear that we expect the problems to be addressed at a general level. It is not for us to intervene in a dispute between the health board and the St Margaret of Scotland hospice—that is for them to resolve between them. I hope that the review will clarify matters. It will then be for others to take things forward if it turns out—as the supporters of St Margaret's have reason to hope—that there has been inequity in treatment.

16:00

The Convener: Thanks, Robin. That is helpful. I was going to make exactly that point. The committee is in a slightly difficult position. Nonetheless, revised guidance on hospice funding

is currently out for comment from national health service boards and the Scottish hospices forum and it might be interesting for the next committee to look at the outcome of that. I think that it would be admissible for the committee to include the petition in our legacy paper on that ground, but I seek guidance from the clerk.

Fergus Cochrane (Clerk): The guidance that is issued on public petitions, which we give to petitioners, is that a petition must have a wider national dynamic. The committee has no locus in the specifics of any dispute or operational matter—that would be for, say, the health board or education authority, as appropriate. If the petition is to go forward under the legacy arrangements, I invite the committee to be quite clear about the issues to be considered and to emphasise the point about the local aspects of it.

The Convener: We must make it clear that the committee does not have a locus in the operational matters of health boards, although members may want to comment.

Bill Butler: In respect of what you have just said, convener, the petition is about

“whether arrangements for funding palliative care provision at hospices ... are fair and reasonable.”

It is about the first point that Des McNulty made, which is perfectly permissible and within the rules.

Robin Harper: Absolutely.

The Convener: Okay. Is it agreed that the petition will go into the legacy paper?

Members *indicated agreement.*

The Convener: Thanks very much, Mr McNulty.

Des McNulty: I will make a couple of points in conclusion, if I may. It is reasonable to say that it is not for the committee to involve itself in local issues. We never asked it to do that. Bill Butler is right to say that the fact that we do not yet have the information on hospice funding is a reasonable basis on which to continue the petition.

Also, I make the converse point to the point that Robin Harper made. The issue has been going on for three years and has come to the committee, in different contexts, a number of times because of the unsatisfactory handling of matters by NHS Greater Glasgow and Clyde, which has gone on for an unreasonable length of time. There is an issue about the decision-making processes of the health board, irrespective of its decisions, which is a reasonable matter for the committee to pursue. I am not asking the committee to adjudicate on whether the hospice or the health board is right in relation to any future decision; I am highlighting the fact that the process has been uncomfortably long and inappropriate and that the responsibility for that rests with the health board. There is an

issue about the way in which matters are dealt with by NHS Greater Glasgow and Clyde and, maybe, health boards more generally. The matter should have been dealt with far earlier than this.

The Convener: The next committee may wish to pursue those issues, but we must be clear about the grounds on which we have decided to include the petition in our legacy paper. Thank you.

Transport Strategies (PE1115)

The Convener: PE1115, by Caroline Moore, is on behalf of the campaign to open Blackford railway station again. I welcome Richard Simpson again.

Dr Simpson: I am sorry that I keep popping up this afternoon.

The Convener: Over to you—briefly, if possible.

Dr Simpson: Yes, briefly again. The committee may be aware that I have been arm wrestling with the Government over the reopening of Blackford station for the Ryder cup. The Government is winning. It has managed to obscure any attempt that I have made to formulate a question that will get a satisfactory answer.

Time is moving on. It is now March 2011 and the Ryder cup will be with us in 2014—as I understand it, that is an immutable date. A decision on the significant restoration of Blackford or the upgrading of Gleneagles to a state that would be satisfactory for the 40,000 expected visitors cannot be postponed for ever.

The Government's response to me has been that the process is iterative. When I asked when the iterative process would conclude, I was told that it would conclude when the Ryder cup practice rounds were played. I do not know what the committee feels about that, but I was somewhat taken aback.

I ask the committee to continue the petition until we get a satisfactory and conclusive decision about what will happen with Blackford station, particularly in relation to the Ryder cup, which is a matter of national importance. We do not have adequate transport arrangements for the event, particularly for those who are disabled and who cannot at the moment get off at Gleneagles station—at least in one direction—without phoning the neighbouring station. There is no sign that the station will be upgraded under the disability access arrangements, because the UK Government has massively cut that funding. The latest information that I have is that there is not a lot of funding around for upgrading stations anyway. However, it seems to me that in light of the regional report on Blackford station, consideration of the petition should continue.

I am sorry that I went on a little bit longer than I intended.

The Convener: Do committee members have any questions or views on the petition?

Bill Butler: I was tempted to move that we close it, but I take Dr Simpson's point that we still have not had a specific answer as to whether either Gleneagles railway station will be upgraded or Blackford station will be reopened. I agree that we need a satisfactory, definitive decision regarding that, especially as we expect 40,000 visitors for the Ryder cup in 2014. Transport facilities for those who attend the event need to be up to the mark, especially for those who are disabled. On that basis, I suggest that we can only continue the petition and include it in our legacy paper.

Robin Harper: I declare an interest, in that I have signed several documents saying that I am very much for the opening of Blackford railway station. However, the petition cannot be a petition to open Blackford railway station; it is, in fact, about national and regional transport strategies. As long as we ask the Government to clarify its national and regional transport strategies in a way that the petitioners hope will result in Blackford station being reopened, I will be happy to continue the petition, but it cannot be continued as a petition for Blackford.

The Convener: Is that agreed?

Members *indicated agreement.*

The Convener: The petition will go into the legacy paper. Thank you very much, Dr Simpson. Is that you finished now or do you still have more petitions to come?

Dr Simpson: Yes, two more.

The Convener: We look forward to your return.

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

The Convener: PE1124, by Louise Robertson, on behalf of the League Against Cruel Sports, Advocates for Animals, the International Otter Survival Fund and Hessilhead Wildlife Rescue Trust, seeks to ban the manufacture, sale, possession and use of snares. I seek committee members' views on the petition.

John Farquhar Munro: The clerk's paper suggests that we should include it in our legacy paper in the hope that the successor committee will pick it up and run with it.

The Convener: Are there any other suggestions?

Nigel Don: This is an emotive issue and people on different sides are not going to let it go.

However, we have just legislated, so perhaps the Parliament has given, for the time being, its last will and testament on the matter. The Parliament has done everything that can be done with the petition, so we should close it. I do not suppose that the subject will go away, but we have just legislated, have we not?

Cathie Craigie: The Parliament had an opportunity to go part way towards meeting the requests in the petition, but it is a Parliament of minorities and the bill was not voted for by an overwhelming majority. We should therefore keep the petition open and let it go forward to our successor committee in the next parliamentary session.

The Convener: We would have to make clear the grounds on which we were doing that.

Cathie Craigie: It would be on the grounds that my colleague John Farquhar Munro just described.

The Convener: The Department for Environment, Food and Rural Affairs is conducting research into the use and humaneness of snares in England and Wales. The results of that research have yet to be published.

We have heard two opposing views from committee members. May I hear some further views, please?

Bill Butler: We should include the petition in our legacy paper. We should also write again to the DEFRA secretary of state. The response to that letter will not inform this committee, but I hope that it will inform our successor committee, which may or may not wish to continue the petition. We should afford that committee the opportunity to make the decision.

Nanette Milne: I agree with Nigel Don: we have been through the issue. The Parliament has just made a decision on snaring, so I favour closing the petition. If we do so, it will still be possible for the issue to be raised again in future. Once the results of the research have been published, if these people wish to raise another petition, I am sure that they will.

Robin Harper: Like others here, I have been campaigning for a ban on snares and it is worth noting that in the recent legislation the Parliament agreed that the issue must be considered again in, I think, 2014. To many people, that will seem a long time away; the review might come up with suggestions that propel us into taking an earlier decision on whether we can make progress in the direction that many of us feel to be the right one. We should continue the petition, but it is worth noting where we are.

The Convener: The clerk has just reminded me that we had already decided that we would wait for the conclusion of the DEFRA research.

Fergus Cochrane: In previous meetings, we have flagged up that we are awaiting the results of that research. Committee members have said before that they would reflect on those results and then invite the Scottish Government to consider their impact.

The Convener: It is therefore probably incumbent on us to include the petition in our legacy paper. Who knows what the position will be of whatever Government comes in after the election?

Are committee members happy that we should continue the petition on those grounds?

Members indicated agreement.

Blood Donation (PE1135)

16:15

The Convener: PE1135, by Rob McDowall, seeks a review of guidelines to allow healthy gay and bisexual men to donate blood. I seek committee members' views on the petition.

Nanette Milne: This is another petition that we should refer to the successor committee through our legacy paper. The UK Advisory Committee on the Safety of Blood, Tissues and Organs is conducting a review. We really need to know the result of that and the Government's response to it before we close the petition.

The Convener: Is the committee content that the petition go into the legacy paper?

Members indicated agreement.

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

The Convener: On petition PE1169, I welcome David Primrose, director of George Street Research, to the table along with Graham Ross from the Scottish Parliament information centre. I thank George Street Research for conducting research on the committee's behalf and I invite Mr Primrose to set out the findings and conclusions from it.

David Primrose (George Street Research): Certainly, convener. To put the research into a bit of context, the industry's guidelines for the display of publications that are referred to as lads mags are: that they should not be displayed

"at children's eye-level or below, to ensure that they are not in the direct sight and reach of children";

that they should not be displayed adjacent to the display of children's titles and comics; and,

"Where display space restraints preclude the above, that titles with front covers that may cause concern are part-overlapped with other titles".

We did 152 mystery shops and spoke to 60 retailers by telephone. We discovered that every store displayed lads mags and that the majority of the displays—76 per cent—were wall displays, so, in theory, there is scope for the retailers to display them quite high up in three quarters of instances. In the majority of the stores, the magazines were laid out horizontally, so they were displayed at a set level.

The guidelines—and, indeed, the petition—use the term "children's eye-level", but we asked at what height the lads mags were actually displayed. About 16 per cent of them were displayed at less than 1m high and 49 per cent, which is nearly half, were displayed at 1.5m high. I have brought along a tape measure to demonstrate exactly what that means. We have 16 per cent displayed at around my waist height and 49 per cent displayed at 1.5m, which is around my shoulder height. Therefore, 65 per cent of the magazines that are on display are displayed at or below 1.5m.

The guidelines say that if the magazines are not in displays, they should be overlapped. The major supermarkets and the franchise-type confectionery, tobacconist and newsagent stores are most likely to do that. However, it was interesting to note that there was no attempt to overlap them in any of the forecourt retailers—the petrol stations—that we examined and, indeed, they were all relatively low down.

The retailers for the majority—69 per cent—of the lads mags that were observed at or below 1.5m had made no attempt to hide the front covers, which were clearly visible.

It may be that some of the guidelines that use the term "children's eye-level" are not specific enough. We did a couple of in-depth interviews with some major retailers and got sight of some of their in-house guidelines, which talk about 1.2m as a minimum display height. However, it is in the eye of the beholder whether a height other than 1.2m is children's eye level, and it depends what age of child we are talking about.

As I said, we spoke to 60 retailers as part of the project. Most of them—80 per cent—said that they were aware that there were guidelines on how magazines should be displayed and three quarters of them said that they were aware of the guidelines that should apply to lads mags. A fair number of them had written policies on the matter, although independent retailers—newsagents, really—were less likely to have a policy. The majority of the people we spoke to said, "Yes, we're aware of the guidelines. No, there's no problem with complying with them—it's relatively

easy for us to do so.” So there is an apparent disconnect in what we are finding.

We have looked at measurable heights. It is a matter of opinion what a child’s eye level is, but we have evidence of what we have seen out there. Set against that, there are the retailers’ guidelines and their belief that they are, in the main, doing the right thing and sticking to the guidelines. Therefore, our conclusion from the mystery shoppers and the interviews with retailers is that a lot of magazines are being displayed at heights of between 1m and 1.5m, in full view, with no attempt being made to cover them up. However, most of the retailers in whose premises that is happening believe—or at least say that they believe—that they are complying with the guidelines.

The Convener: Okay. Thanks very much. I invite questions from committee members.

Robin Harper: I am afraid that I am displaying a degree of ignorance. Is there no definition in the guidelines about what a child’s height is? Has that deliberately been left out so that people can interpret it in any way that they like?

David Primrose: Well, those are your words—saying that it has deliberately been left out.

Robin Harper: Sorry—I should not have phrased my question in that way.

David Primrose: There are no specific heights in the industry’s guidelines. As I say, we spoke to some of the major retailers and saw their internal guidelines, which they want to be kept confidential—out of the public domain, anyway. Those have specific heights in them and the minimum height that they talk about is 1.2m.

Robin Harper: That is well within the sight lines of most children who would be walking around with their parents in a shop.

Cathie Craigie: Thank you for talking us through your research findings. The petition raises the point that the magazines should be screen-sleeved before they are put on the shelves. Did you come across any good practice in that respect?

David Primrose: The magazines are not bagged, but we observed that some of the major supermarkets have started to put them into plastic containers that have just the names of the magazines on the front and hide the covers. We did not see that anywhere other than in the big supermarkets, and it was not in all of them. It is obvious that some supermarkets are responding in some way to what the public are saying. However, when we asked retailers whether anybody had ever complained about the magazines being displayed, only about four people said that some mention of that had been made by members of the public.

Cathie Craigie: They had complained about them being in sleeves.

David Primrose: No, they had complained about them being within sight. Some retailers appear to have responded to concerns, but they have also said that not many people are really bothered about it.

Anne McLaughlin: I know that the survey that we asked you to undertake was limited, but we wanted to establish whether there is a problem out there—and there clearly is. I am interested in what you say in your report about the forecourt retailers:

“One area of notable interest relates to forecourt retailers as none of them display the magazines high up and the majority make no obvious attempt to hide anything that might cause offence.”

That is interesting.

David Primrose: Yes. That is a feature of the forecourt retailers. I am sure that you know the type of unit if you regularly drive along the M8 and pop into Harthill services—although I am not saying that it happens there. They have low magazine racks, so there is not the same scope for displaying the magazines at height. The smaller petrol stations also have limited space, but even in the bigger ones that have chiller cabinets on the walls, the magazine racks are often in the middle of the store and do not go up to ceiling height. The guidelines imply that in such scenarios the magazines should be overlapped or in some way bagged, but our mystery shoppers did not find evidence of that in the majority of cases.

Anne McLaughlin: In your demonstration with a tape measure, at the first height level that you demonstrated it was almost as if the magazine placement was aimed at children, because adults would not necessarily see them, but children might.

It was helpful that you included some of the magazine covers because, to be honest, I had never really looked at them. I thought that they would probably be offensive to women, and I was supportive of the petition, but now that I have seen them—I will not read out the headlines—I am horrified. I certainly feel inclined to do more with the petition. Thank you for the work that you have done.

David Primrose: I had to do a bit of explaining in the office about why such magazines were on my desk.

The Convener: You said that some of the bigger retailers place their magazines in boxes. Is that because they have a tighter code of conduct than smaller retailers?

David Primrose: I cannot say, because I did not speak to individual representatives from the major supermarkets. The major supermarkets said

that they have written policies that are clearly communicated to staff, but I did not get sight of what is in them.

The Convener: It might be interesting to find out what is in them. The committee can perhaps look into that.

Nigel Don: I think that I know the answer to this one, but I would like to ask Mr Primrose the question while he is here. The survey is based on a relatively small sample. From what you have seen, is there any possibility that the results that you have come up with could be regarded as unrepresentative?

David Primrose: In any market research survey there is an element of sampling error. In a survey of this size, with 152 mystery shops, the sampling error is quite large, by the standards of market research professionals, but we were asked to go out and look for evidence whether a significant number of such magazines were on display and the evidence was that they were.

The margins of error are between 6 and 8 per cent, so they are quite large. Nonetheless, the sample is statistically representative, albeit with quite large margins of error. You can therefore take the survey as being quite a robust indicator of the true picture, because we conducted it across all geographies and all types of stores. I think that you can rely on it quite heavily.

Nigel Don: It is consistent with what some of us see. My colleague Anne McLaughlin may be blind to those things, but some of us are genetically predisposed to perhaps be less blind to them. The results of the research seem to be consistent with what we naturally observe.

The Convener: I shall not comment on that.

As there are no more questions, I thank David Primrose and ask committee members for their views on where we go with the petition.

Robin Harper: We should continue the petition and include it in our legacy paper.

The Convener: It is proposed that we include the petition in our legacy paper. Do we want to suggest what actions might be taken?

John Wilson: We could forward a copy of the research report to the Cabinet Secretary for Justice and ask what action the Scottish Government will take as a result of the findings. I suggest that we also send a copy to the Minister of State for Children and Families in the Department for Education in the UK Government, indicating what is contained in the report, so that we can get some feedback.

One issue that we have not discussed today but which we have discussed previously is that there is a voluntary code for how retailers display such

magazines. The petitioners and others have indicated that they would like the code to be firmed up, if not legislation to be introduced, to ensure that retailers do not display the magazines at such heights that they can easily be seen by people and can easily be picked up by children. If we take the matter forward in that direction, as part of the legacy paper, I hope that we can move towards firming up the voluntary code, if not putting legislation in place, to avoid this happening in the future.

The Convener: Thank you. So it is agreed that the petition will be included in the legacy paper. I presume that the committee would have no problems with publishing the research report.

Members indicated agreement.

The Convener: I thank David Primrose for his attendance.

A92 Upgrade (PE1175)

16:30

The Convener: PE1175, by Dr Robert Grant, is on the A92 upgrade. I seek members' views on the petition.

Bill Butler: This one requires to be in the legacy paper. It would be appropriate for us to invite the session 4 committee to consider the petition along with the Transport Scotland review of the A92 Scottish transport appraisal guidance report and its implications for the petition.

The Convener: Is the committee content with that?

Members indicated agreement.

A90/A937 (Safety Improvements) (PE1236)

The Convener: PE1236, by Jill Campbell, is on the A90/A937. I welcome Mike Rumbles, who is here to speak to us. Please be brief, Mr Rumbles.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I understand, convener. You have got a lot of business ahead of you.

I thank the committee, because without its work the petitioners would not have secured a commitment from the Scottish Government for a cost refinement exercise to find out what funds would be required to provide a safe junction at Laurencekirk. However, the petitioners were extremely disappointed to find out from Transport Scotland that that exercise could take up to eight months to complete and will not even produce a definitive figure. We already have estimates ranging from £4 million to £20 million for the project.

On behalf of the petitioners, I ask the committee to include the petition in its legacy paper for the next committee so that we can all discover how much the junction would cost to build in the knowledge that the estimate is robust. In its response to the committee, Transport Scotland agreed to report to your successor committee in the next session. This is clearly unfinished business, and I hope that you will allow Transport Scotland to report to the next committee by including the petition in your legacy paper.

The Convener: Thank you. I seek committee members' views.

John Wilson: I thank Mike Rumbles for his comments and support his suggestion that we include the petition in our legacy paper. However, we should seek clarification from Transport Scotland as to why it would take up to eight months for it to carry out the cost refinement exercise, so that we can be clear about whether there is a deliberate delaying of producing the results of that exercise or whether that would be a normal timescale. I support the suggestion that the petition be included in the legacy paper, but I ask that clarification be sought from Transport Scotland and possibly the Minister for Transport and Infrastructure as to why the process would take so long.

Bill Butler: I am pleased to say that I adopt the arguments that have been put forward by my colleagues Mike Rumbles and John Wilson.

Nigel Don: I note the petitioner's comment that she feels that Transport Scotland has no interest in making this happen. I am unable to comment on what her source might be, but Transport Scotland needs to recognise that this is the biggest issue concerning transport—arguably the biggest issue of any—for people who live in the Mearns. It needs to understand that the issue is not going to go away.

There is no good in Transport Scotland coming here and telling us that it is all about the traffic going north-south, as a significant amount of traffic has to join the road by crossing a carriageway and a significant amount of traffic has to cross the road. We are talking about a long stretch of road without a grade-separated junction. The next one going south is at Stracathro, and there are plenty up in Stonehaven, but there is a significant section where there is no grade-separated junction, although there needs to be. The issue is not going to go away and Transport Scotland needs to understand that.

Nanette Milne: I reiterate what the other members have said. Both Transport Scotland and the minister should be aware that the committee takes the matter very seriously. It is a big issue and we need to follow through on it.

The Convener: Thank you. Do members agree that the petition should go into the legacy paper?

Members *indicated agreement.*

The Convener: Thank you, Mr Rumbles.

Medical Negligence (Pre-NHS Treatment) (PE1253)

The Convener: PE1253, by James McNeill, is on compensation for pre-national health service medical negligence. Christine Grahame MSP is with us, and I invite her to make a brief submission on the petition.

Christine Grahame (South of Scotland) (SNP): I thank the committee for its sensitive consideration of the petition. I say that on behalf of myself and, more important, my constituent, who has attended every meeting at which the committee has considered the petition.

Mr McNeill accepted from the start that we might not achieve all the petition's aims. I want to put on record my thanks to the Cabinet Secretary for Health and Wellbeing for meeting us both, as the committee had requested. She was very sympathetic, but for reasons to do with legal precedent that I think that the committee will understand she was able to go no further in the circumstances, although she has offered to help as far as is possible in other ways, if that is practicable for Mr McNeill.

We are mindful that justice has still not found a remedy and that the proposed no-fault compensation will not operate retrospectively. However, there is to be a new session of the Parliament, and if I am re-elected I will continue to pursue justice for Mr McNeill. He may be one man, but an injustice for one man remains an injustice.

I do not want to speak for the committee, but I have a feeling that you are sympathetic to the view that a great injustice has been done to Mr McNeill and that there continues to be no solution. I know that the Public Petitions Committee cannot solve everything or deal with every detail, but you have shown the ability to progress matters beyond party politics, Governments and Oppositions and to stand up for the wee people. I hope that you will keep the petition open. I appreciate that that is a big plea, but I hope that you will do that, so that the Parliament can find a way to remedy matters for people for whom there is currently no remedy.

The Convener: Thank you. What are members' views on the petition?

Nigel Don: I hear what Christine Grahame said; the difficulty that I have is knowing what else we can do. I entirely agree with her that there is an individual case that needs some kind of answer.

However, we do not appear to have a mechanism for providing an answer.

Given that the committee is bad at solving individual cases—indeed, that is not part of our remit, by and large—and given that there is no suggestion about what more we can do, I am struggling to see to what purpose we would keep the petition open. To some extent I am looking to Christine Grahame to give me an answer. I recognise the issue and the injustice, but if we are to keep the petition open we need to have something to look forward to. At the moment, I do not see what that is.

Bill Butler: I am afraid that I tend to agree with Nigel Don—I say “afraid” not because I do not regularly agree with him in this committee but because I do not see where we can take the petition. I do not see what more the committee can do and what other avenue we can explore. With the best will in the world—and I am fully sympathetic to Mr McNeill, the petitioner—I have not heard anything specific from Christine Grahame about what the committee can do other than to say that it will keep the petition open. To what purpose would we keep it open? That is the problem that I have.

Anne McLaughlin: Can we ask Christine Grahame if she can suggest how we might take the matter forward? I think that we are all completely sympathetic to the petitioner and the petition; it is about knowing what to do next with the petition.

Christine Grahame: It might be that an incoming Government should consider legislating to deal with exactly the circumstances that the petition describes. The Government has boxed itself in on no-fault compensation—I understand that; the law is very difficult when we make it retrospective. However, I am thinking about a very narrow piece of legislation, if required, that would not operate in any other way.

Instead of simply wringing our hands and saying that there is no tool in the toolbox just now to deal with such a case, we should make a tool—or at least give it a try. This Parliament is supposed to be imaginative. Surely if we all agree that an injustice has been done and that no remedy exists to deal with it, we should find some way of finding that remedy to help people such as Mr McNeill.

The Convener: Despite the on-going concerns about this particular issue, the question is whether, technically, the committee can do anything more. Let us hear some more members’ views.

Bill Butler: There is a limit to anyone’s imagination, no matter whether they are around the table or elsewhere. I hear what Christine Grahame has said and like, I am sure, every member of the committee I am sympathetic to her

remarks. All I can think of is that we suggest to the petitioner that if a member who is successful in the election on 5 May—whoever they might be, Ms Grahame—decides to introduce a member’s bill, this petition or a very similar one could be revived to take that particular development into account. At that point, the issue would become live again.

That is as heavy a hint as I can possibly give to Christine Grahame, but right now, in all honesty, I think that the committee has to close this petition. It might very well reappear in another guise in the new diet.

Christine Grahame: That was indeed my fall-back position. I had decided that if the committee did not continue with the petition, I would take it forward in a member’s bill, if possible.

The Convener: Is the committee content to close the petition?

Members indicated agreement.

The Convener: I thank Christine Grahame for her attendance.

Houses in Multiple Occupation (Regulation) (PE1261)

The Convener: PE1261, by David Middleton, on behalf of Sustainable Communities (Scotland), is on the regulation of houses in multiple ownership. I seek members’ views on the petition.

John Wilson: When we last considered the petition we were unsure whether the Private Rented Housing (Scotland) Bill would actually come before Parliament, even though at the time I suspected that it would be introduced before the end of the session. Given that stage 3 of the bill will be debated in Parliament next week, I suggest that we close the petition.

The Convener: Are members content with that suggestion?

Members indicated agreement.

Freight Trains (Overnight Running) (PE1273)

Rail Noise and Vibration (Larbert) (PE1302)

The Convener: We will consider PE1273 by Anne Massie, on the overnight running of freight trains, and PE1302 by Colin Sloper, on noise and vibration by heavy freight on the rail network, together. We are joined again by Dr Richard Simpson, whom I ask to speak briefly to the petitions.

Dr Simpson: Again, I will be brief. First of all, I thank the committee for the very interesting evidence session that it held a couple of weeks ago on the petitions. However, although we heard

from a large group of people, I think that the committee will agree that the session did not exactly resolve matters. Instead, it indicated very clearly that the private Stirling-Alloa-Kincardine Railway and Linked Improvements Bill would not have had the support of Network Rail or, in particular, Scottish Power and DB Schenker if it had not allowed 24-hour or night running of trains. It calls into question the whole process behind the bill and how the evidence was presented to and received by the committee that considered it. Indeed, I believe that Bill Butler clearly said that the committee had been misled in that regard.

I should add that Ron McAulay from Network Rail has visited some of the households affected. Although I welcome that move and record my thanks to Mr McAulay, that does not alter the fact that, almost three years after the railway line was opened, the noise mitigation measures that it was agreed in the original report and submission to the bill committee would be put in place are still not there. Until those measures are in place, we cannot determine the extent to which my constituents will continue to suffer.

On those grounds, I propose to the committee that it should continue with the petitions until we have a satisfactory report indicating that the majority of the mitigation measures have been successful. Hopefully, where they have not been successful and the noise level or vibrations continue to exceed the standards that are set, appropriate compensation will be put in place by a successor Government.

16:45

Bill Butler: I suggest to colleagues that we include the petitions in our legacy paper. If we do that, the successor committee can consider where the issues stand in relation to discussions that have been held with the UK Government on, for example, the consistency or lack of consistency of noise regulations for railways; on the formal introduction of the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996, as amended, in Scotland; and on what emerged from the discussions between the Scottish Government, DB Schenker, Scottish Power, Clackmannanshire Council and Network Rail on the feasibility of the practical steps that can be taken to attempt to manage the noise and vibration issues arising from the night-time running of coal freight trains in and around Dr Richard Simpson's constituency.

John Wilson: I accept what Dr Simpson has indicated, particularly with regard to the Stirling-Alloa-Kincardine rail line. The noise mitigation measures should be in place. We got a commitment at the last meeting at which we discussed the matter, in that Clackmannanshire

Council had avenues for getting funding to put into the noise mitigation measures, via Transport Scotland.

I refer also to PE1302 and the lack of measures around Larbert and Stirling in the lead-up to the Stirling-Alloa-Kincardine line. There are issues there, and I welcome Bill Butler's suggestion that we examine much more widely the transportation of freight overnight. I assure Dr Simpson and the committee that coal freight is still travelling overnight. As I have indicated to the committee on several occasions, I live not far from a rail line that the freight travels along, and I know the times of night when that freight is going past the house. There is a much wider issue here, and I support Bill Butler's assertion that the matter should be included in our legacy paper.

We must consider the wider issues around the transportation of freight along routes that pass close to residential areas and the putting in place of proper noise and vibration mitigation measures in such a way as to ensure that, where Network Rail and other operators decide to use lines 24/7, the measures are in place before the routes start to be operated. With the increase in passenger transport, we might find that more freight will be transferred to travelling overnight, and that could cause further problems for residents living along any railway line in Scotland.

The Convener: Is the committee agreed that the petitions should be covered in our legacy paper?

Members *indicated agreement.*

The Convener: Again, I thank Dr Simpson.

Geodiversity Duty (PE1277)

The Convener: PE1277, by Mike Browne, is on a geodiversity duty. I seek members' views.

Anne McLaughlin: The Scottish Government is yet to fully consider the joint study by the British Geological Survey and Scottish Natural Heritage. In its most recent response, the Government said:

"Once we have considered the study's recommendation we plan to meet with its authors and others to discuss these and the issues raised in the petition."

The study states that

"a geodiversity duty should not be regarded as"

essential

"for the development and implementation of a geodiversity framework",

which is what the petition is asking for, and which is pointed out in the Scottish Government's response.

Given that the petitioner is not happy with that and gave a number of reasons why, I suggest that

we include the petition in the legacy paper and ask the Scottish Government that when it discusses the study with “its authors and others” one of those “others” is the petitioner. When those discussions have taken place and a response has been made, our successor committee can decide what action to take.

The Convener: It is suggested that the petition be included in the legacy. Is that agreed?

Members *indicated agreement.*

The Convener: Thank you.

NHS Translation and Interpretation Services (PE1288)

The Convener: PE1288, by Dr Godfrey Joseph, on behalf of Multi Ethnic Aberdeen Ltd, is on improving NHS translation and interpretation services. I seek members’ views.

Robin Harper: The Government has confirmed that it is working with NHS Health Scotland and health boards to develop various pilot projects to progress remote interpreting for British Sign Language users, and that it will do an evaluation project. A literature review is also being carried out.

The Government also confirmed that lessons

“from the evaluation project and the literature review will also be valuable for community languages, ensuring consistent provision of cost-effective and appropriate translation and interpretation services for patients”.

Given that we have those assurances, it is safe to close the petition.

Nigel Don: I congratulate Dr Joseph on lodging the petition, because there was a real issue. Things have moved on; there has been a sea change in what the NHS is thinking of doing. I note that the petitioner’s comments on the Scottish Government’s response are supportive and positive. It is clear that he thinks that we are going in the right direction.

I think that we can safely close the petition. The issue will carry on for ever, in a sense, but we have made a significant difference. At this point we can sensibly close the petition.

The Convener: I am sure that the committee echoes your congratulations to the petitioner. We agree that the petition will be closed.

Members *indicated agreement.*

Dance (Schools and Colleges) (PE1322)

The Convener: PE1322, by Jacqueline Campbell, on behalf of the residential provision parents group, is on dance teaching in schools and colleges. I seek members’ views on the petition.

Anne McLaughlin: I would not be happy to close the petition at this stage, because we still do not know how many residential places there will be for Dance School of Scotland students. Pupils from not just Glasgow but all around Scotland go to the school, but if the number of residential places is reduced in the way that the petitioners suspect that it will be, the school will stop being a national school.

As a result of all the confusion and lack of clarity, pupils from around Scotland are starting to audition in England and other countries, because they do not know what will happen about the residential provision and they cannot attend the school if they cannot get a residential place.

There is currently no clarity, so we should keep the petition open and put it in the legacy paper. It raises not a local but a national issue, which involves a local authority. What will happen must become clear next year, because I think that there is only a year left on the lease. Our successor committee should keep an eye on and monitor the situation during next year.

Bill Butler: The Dance School of Scotland is in Anniesland, in my constituency. I agree with Anne McLaughlin that the petition should be included in the legacy paper, so that our successor committee can have a look at developments in the area, especially with regard to Jacqueline Campbell’s letter of 21 February, which followed a meeting with Glasgow City Council’s director of education, Maureen McKenna.

There are continuing concerns. I am reasonably confident that they can be addressed, but we must acknowledge that they remain, especially in respect of the number of places, as Anne McLaughlin said.

If we agree to include the petition in the legacy paper, we could also write seeking a more definitive answer from the council on the number of places that it intends to have in the new build—which I hope will be within the campus of Knightswood secondary school.

I think that everyone agrees that success will come through the parents and the students working together with the council and the Scottish Government. The Scottish Government is committed to ensuring the viability of dance teaching, and Glasgow City Council has said on several occasions that the school is not in jeopardy and that dialogue involving the council, parents, students and the Scottish Government continues.

Arrangements have been made by the council to continue the existing residential facilities until July 2012, while the new residence is being built. As Anne McLaughlin and others will realise, this is the second time that the lease at Dalrymple hall

has been extended. If everyone works together, success can be achieved. However, it will do no harm whatsoever to ask the council for a more definitive response on the number of places. If we agree to include the petition in our legacy paper, our successor committee will be able to continue to monitor progress. I am confident that what the committee will be monitoring will be progress and not the reverse.

The Convener: Is it agreed that—

Dr Simpson: Convener?

The Convener: Richard—I did not realise that you wanted to speak.

Dr Simpson: I am glad to say that it will be the last time today. It might seem strange that I want to talk about this topic, but I wanted to give the committee some additional information on a related topic—traditional dance. The Scottish Traditions of Dance Trust is being closed as we speak. It was an umbrella organisation brought into being by the Scottish Arts Council 15 years ago. Its grant was withdrawn two years ago, after which Clackmannanshire Council alone supported it. However, the council is no longer able to do that, so the trust is being closed. It is the umbrella organisation for all Scottish traditional dance groups across Scotland.

This petition is about dance teaching and coaching in schools and colleges in Scotland, so it is relevant that the committee be aware of what is happening to the trust. When considering how to make progress in the whole area of dance, the committee might wish to take that into consideration—if it decides to include the petition in its legacy paper.

The Convener: Thank you very much for that. We are agreed that we should include this petition in our legacy paper. I cannot speak on behalf of our successor committee, Richard, but I am sure that it would be helpful if you could submit a note to it.

Dr Simpson: In one capacity or another, I will do so.

The Convener: I am sure that you will. Are you now finished, Dr Simpson?

Dr Simpson: I am finished and I thank the committee.

The Convener: Congratulations. Thank you very much for your patience in waiting.

Parkinson's (Medication) (PE1331)

The Convener: PE1331 is by Tanith Muller, on behalf of Parkinson's UK. The petition has a heading:

"Parkinson's medication—Get it on time, every time".

Nanette Milne: I suggest that we close the petition, because a lot of progress has been made. Clearly, it is important that patients get their medication on time. The Scottish Government has met Parkinson's UK to discuss the issues. In the new pharmacy contract, the chronic medication service will help community pharmacists to manage the care of Parkinson's. The Royal Pharmaceutical Society of Great Britain is working in partnership with Parkinson's UK to draw up guidelines for pharmacists, in order to increase their awareness when they are meeting the pharmaceutical care needs of people with Parkinson's. Other actions have been taken as well. A lot of progress has been made, and I think that we are justified in closing the petition.

The Convener: Is that the view of the committee?

Members indicated agreement.

Gypsy Travellers (Council Tax) (PE1333)

17:00

The Convener: PE1333, by Shamus McPhee, on behalf of the Scottish Gypsy and Traveller Law Reform Coalition, is on disadvantaged Scottish Gypsy Travellers and members of the settled community. I seek committee members' views.

John Wilson: I am reluctant to close the petition. Too many things are happening in the background that could have an impact on how the petition might proceed. Normally, with the closing of a petition, I would recommend that the petitioners come forward with a future petition. Given that the Government intends to carry out a review on the guidance that is issued to local authorities regarding Gypsy Traveller site management later in 2011, it is incumbent on us to include the petition in the legacy paper to let the new committee consider what has been done regarding the review.

There are further issues that need to be addressed. I am disappointed that the Government has indicated that it will not be examining council tax banding or the water and sewerage charges that are placed on Gypsy Travellers, as well as those that are levied on people who live in permanent mobile homes.

As I said, I recommend that we include the petition in our legacy paper. I take on board the recommendation of the Equality and Human Rights Commission, extending an invitation to the Gypsy Traveller community to be involved in the discussions. That should mean being fully consulted and being involved in the outcomes arising from any discussions that take place.

I respectfully request that the committee put the petition into the legacy paper, which would allow the new committee to pursue some of the issues that the petitioner identifies.

The Convener: The suggestion is that the petition should be included in the legacy paper. Is that the view of the committee?

Members indicated agreement.

Citizenship Education (PE1354)

The Convener: PE1354, by Stewart Mackenzie, is on legal education in secondary schools. I seek committee members' views on the petition.

Bill Butler: I think that the petition has run its course in terms of what the committee can do. I believe that we should close it, under rule 15.7 of standing orders, on the ground that the Scottish Government has provided detailed and helpful information in its response to the questions that the committee asked, which supports the Government's position that citizenship should not be a compulsory element of the curriculum, as was proposed. In addition, the Government has responded to the points that were previously made to the committee by the petitioner, as well as by the Scottish Trades Union Congress, Consumer Focus and Citizens Advice Scotland. On those bases, I suggest to colleagues that we close the petition.

The Convener: Is it the view of the committee that we should close that petition?

Members indicated agreement.

Public Transport Costs (Under-18s) (PE1355)

The Convener: PE1355, by Katy Simmons and Scott Currie, on behalf of Arran high school pupils and the Arran youth forum, is on fair public transport costs for students. I seek committee members' views on the petition.

John Farquhar Munro: The petition received a lot of support. It deals with the situation that 16 to 18-year-olds find themselves in, between school and study. There does not seem to be any sort of benefit or concession to them when travelling, whether by bus or by rail. Because of the level of support that the petition has had in the past, I am rather reluctant to agree to close it. I thought that it would be worth putting into the legacy paper for the next session of the Parliament.

The Convener: I wish to clarify the situation. My understanding is that the Scottish Government already offers a concessionary fares scheme for travel on bus, ferry and rail to Scottish residents aged 16 to 18, and to full-time Scottish resident

volunteers—those working 30 or more hours a week—aged 19 to 25. That is the position.

John Farquhar Munro: I think that it is for 16 to 18-year-olds if they are in full-time education.

The Convener: Ah, yes—I see. It has been suggested that we continue the petition and include it in our legacy paper. Is that agreed?

Members indicated agreement.

The Convener: We have to be clear under rule 15.7 why we are taking this action.

John Farquhar Munro: There has been a lot of support for the petition at all stages of its journey through the committees, and there are unresolved issues as regards the 16 to 18 age group who are not in full-time education. I suggest that that is sufficient reason to continue the petition and include it in our legacy paper.

The Convener: I am looking at the wording of the petition, which calls on the Scottish Parliament

“to urge the Scottish Government to consider the need to lower the prices for travelling on public transport for all school and further education students age 18 and below.”

Is that not covered by the Government's response to us on the petition? I am having difficulty with what we propose to do on the petition, which is specifically targeted at

“school and further education students age 18 and below.”

Is it not the case that young people in our schools and colleges are being offered concessionary travel? That is my understanding.

John Farquhar Munro: I think that that is correct. My worry is about young people aged between 16 and 18 who are not in full-time education.

The Convener: I understand your concern. However, my point is that we are restricted by the terms of the petition.

John Farquhar Munro: I see.

The Convener: The petition specifically wants to

“lower the prices for travelling on public transport for all school and further education students age 18 and below.”

My concern is that what you have suggested does not refer specifically to the wording in the petition. Do you see what I am getting at?

John Farquhar Munro: You win.

The Convener: I am not trying to be unhelpful, but we are constrained to give reasons that are specifically limited to the petition's wording.

John Farquhar Munro: Very good. I accept that.

The Convener: Thank you for that. So, is it the committee's view that we close the petition?

Members *indicated agreement.*

The Convener: The suggestion was that we close the petition under rule 15.7, but we need to state publicly the reasons for closing it.

Bill Butler: Perhaps one reason would be that the Scottish Government already offers a concessionary fare scheme for travel on bus, ferry and rail to Scottish residents aged 16 to 18 and full-time Scottish resident volunteers—that is, those working 30-plus hours a week who are aged 19 to 25. On that basis, I think that it is right to close the petition.

The Convener: Thank you.

Renewable Energy Stations (Consent) (PE1357)

The Convener: PE1357, by Tessa Packard, on behalf of Black Mountain Farms, Faccombe Estates, Horseupcleugh Estate, Burncastle Estate and Cranshaws and Longformacus community councils, seeks an inquiry into consent for renewable energy generating sites. I seek committee members' views on the petition.

Bill Butler: I think that no avenue is open to us other than to close the petition, under rule 15.7 of standing orders, given that the Scottish Government has provided reasons why it will not convene an inquiry to consider the process for giving consent to onshore and offshore renewable energy generating stations. In addition, the Scottish Government has provided a detailed response to the questions that the petitioners asked in their submission of 16 November 2010.

The Convener: Does the committee agree that the petition should be closed?

Members *indicated agreement.*

Family Law (Scotland) Act 2006 (Post-legislative Scrutiny) (PE1362)

The Convener: PE1362, by Brian McKerrow Jnr, is on post-legislative scrutiny of the Family Law (Scotland) Act 2006. I seek committee members' views on the petition.

Bill Butler: This is another petition on which we can do nothing further. I suggest to colleagues that we close the petition, under rule 15.7 of standing orders, on the ground that the committee is satisfied that it has examined the petition through a series of questions and written evidence received in response, including responses to specific questions from the petitioner, all of which have been published. The committee is satisfied with the information that it has received. On that basis, I suggest that we close the petition.

The Convener: Is that agreed?

Members *indicated agreement.*

Political Education (PE1368)

The Convener: PE1368, by Rowena Carlton MSYP, on behalf of the Scottish Youth Parliament, is on political education for all. I seek members' views on the petition.

Bill Butler: Sorry, convener, which petition are we on? I have lost my place.

The Convener: We are on PE1368 by Rowena Carlton MSYP.

Bill Butler: Right. I thought that we had gone on to PE1362. I beg your pardon.

The Convener: Have I missed one out? No, I see that we have just dealt with PE1362.

Bill Butler: I beg your pardon, convener.

John Wilson: I recommend that we close the petition under rule 15.7 of standing orders, on the grounds that the Scottish Government expects the modern studies excellence group to continue and the indications are that the Scottish Youth Parliament could have someone on that group as it continues its deliberations.

The Convener: On behalf of the committee, I congratulate Rowena Carlton on the work that she has done on the issue. I am sure that there will be on-going engagement on the matter. Is it agreed that the petition should be closed?

Members *indicated agreement.*

Bishop Robert Wishart (PE1373)

The Convener: PE1373 is by Lydia Reid and Sammy Lowrie, who seek to raise a saltire in honour of the memory of Bishop Robert Wishart. I seek committee members' views on the petition.

John Wilson: I recommend once again that, under rule 15.7 of standing orders, we close the petition. Although the petitioners have not gained all that they asked for, in particular the raising of a saltire to mark the memory of Bishop Robert Wishart, Historic Scotland has clearly come a long way and has indicated that it will provide a plaque outlining the relevance of Bishop Wishart to Scottish history. Historic Scotland has also indicated that it will give the petitioners sight of the plaque and how it intends to lay the plaque out prior to installation.

I commend the petitioners for their work. Although they have not achieved all of their aims, they have come a long way towards achieving most of them.

The Convener: Are there any other comments?

Bill Butler: I have nothing further to add.

The Convener: Is it agreed that PE1373 should be closed?

Members *indicated agreement.*

Silicone Breast Implants (PE1378)

The Convener: PE1378, by Mairi Johnston, is on silicone breast implants—rupture awareness. I seek committee members' views on the issue.

I welcome Rhoda Grant MSP to the committee. Would she like to say a few words?

Rhoda Grant (Highlands and Islands) (Lab): Yes, thank you, convener. I feel like I am almost a member of the committee, because I pop in so often.

The Convener: You and Dr Simpson.

17:15

Rhoda Grant: I had some concerns about the information that the committee was given following the most recent meeting on the matter. The committee was informed that there was only one report of an adverse incident. That is obviously a big issue, as such incidents are in fact a lot more common than that. I do not know whether general practitioners are involved in reporting adverse incidents, or how that happens. If a patient goes back to a private clinic to report an adverse incident, for instance, is that clinic bound under health service rules and guidelines to report it? It would be useful for the committee to pursue that point.

I understand that there is a three-year time limit for complaints regarding health procedures. Given that symptoms can sometimes take 10 to 15 years to appear, that time limit also requires to be examined.

There is a further concern. The Scottish Government did not know what I meant about treatment time and the treatment that is available. I meant that if the condition is not recognised and if the science is not there to prove the symptoms, the treatments that might alleviate the symptoms are not available on the NHS, as they are not viewed as forming a care pathway. More research needs to be done into what treatments are available to treat the symptoms instead of removing the silicone. A number of issues regarding the petition still give concern.

We are obviously coming to the end of the parliamentary session, and the committee will be trying to close off petitions or decide what otherwise to do with them. Perhaps the Public Petitions Committee will wish to put this petition in its legacy report, referring it to the next session's health committee, so that it may carry out an

inquiry into the issue. A lot of the work that has been carried out on the subject seems inadequate and there is not enough information available to allow people to help others who are suffering from this type of illness.

The Convener: I seek the views of the committee.

Cathie Craigie: In view of the information that Rhoda Grant has brought to the committee this afternoon—noting the response that we received from the Government and the other information that we got from the Medicines and Healthcare products Regulatory Agency—I think that we should continue the petition and include it in the legacy paper. The issue is clearly a serious one, and it surely merits the fullest possible consideration of all the available facts. If the information and the data are not currently being gathered in such a way that we can make proper judgments on the issue, we should try to ensure that they are.

Nigel Don: I wonder if it is appropriate, in our legacy paper, to suggest to our successors that they might wish to refer the matter to the health committee in the next session. It seems to be an issue that a subject committee could reasonably look into. Early in the session, there is more likely to be space to carry out such an inquiry, and next session's committee might be grateful to have the petition directed to it.

The Convener: Is that the view of the committee?

Members *indicated agreement.*

The Convener: It is agreed that we will include the petition in our legacy paper, on the ground that there seem to be some disputed statistics that the next committee might wish to look into. Thank you for attending, Rhoda.

Football Tickets (Prohibition of Resale) (PE1380)

The Convener: PE1380, by Andrew Page, relates to prohibiting the resale of football tickets. I seek committee members' views.

John Wilson: I propose that we close the petition under rule 15.7 of standing orders. I note that the Scottish Government is minded not to change the existing legislation against ticket touting.

I put on record my disappointment at the pessimism that the Scottish Government seems to be expressing about international football games not reaching their maximum attendance. The committee has dedicated time to considering the future of Scottish football. We aspire to a time when all internationals being held in Scotland

reach their maximum gate. We might have to review the issue in future to ensure that there is no increased prevalence of ticket touting outside international and domestic games in Scotland.

The Convener: Is that the view of the committee?

Members indicated agreement.

The Convener: I was not sure whether Mr Wilson's reasons for closure were necessarily the view of the committee, but it is agreed that we will close the petition.

Solicitors (Scotland) Act 1980 (Repeal) (PE1388)

The Convener: The second-last petition today is PE1388, by William Burns, on behalf of the crusade for the protection of true democracy, on the repeal of the Solicitors (Scotland) Act 1980. I seek members' views on the petition.

Robin Harper: I am happy to close the petition, under rule 15.7. The Scottish Government has indicated that it has no plans to repeal the Solicitors (Scotland) Act 1980. It has responded to the question that was raised about the resignation of John McGovern. The repeal of the act is not supported by the Law Society of Scotland. Consumer Focus Scotland has expressed qualified support for self-regulation on the ground that it brings certain benefits to consumers.

The Convener: Does the committee agree to close the petition?

Members indicated agreement.

Cancer Treatment (Cetuximab) (PE1108)

The Convener: The final petition that we will be considering today—and indeed this session—is PE1108, by Tina McGeever, on behalf of Mike Gray, on the provision of the drug cetuximab across national health service boards. I seek members' views on the petition.

Bill Butler: The petition was one of those that was referred to in the recent debate in Parliament on the work of the Public Petitions Committee, and for good reason because it has had considerable effect.

We have come to the end of what we, as a committee, can do, but in closing the petition we should state clearly and for the record that positive action has been taken as a result of the petition and the committee's inquiry, including the issuing of revised guidance to NHS boards on the arrangements for NHS patients receiving health care services through private health care arrangements. That has provided a framework to support decisions concerning the possible

combination of elements of NHS and private care for individual patients.

Importantly, the Scottish Government, following the workshops organised by the Scottish Medicines Consortium in May 2010, is developing good, proactive guidance to NHS boards on individual patient treatment requests.

Further, the SMC is developing a statement on quality-adjusted life-year methodology, which is being peer reviewed by its patient and public involvement group for comment on the statement's language, content and presentation.

The letter of 13 February 2011 from the Cabinet Secretary for Health and Wellbeing sets out the many positive actions that are being taken forward by the Scottish Government as a result of the petition. Importantly, it makes the point that monitoring of the new processes and chief executive letter framework will be undertaken by it through various mechanisms that it has in place with NHS boards. Where there is evidence to suggest that boards are not implementing the guidance, it will be vigorously investigated.

I am sure that the committee would like to reflect not only on the positive actions of the Scottish Government but on the indispensable input of the petitioner, Tina McGeever, on behalf of her husband, the late Mike Gray. Without the petitioner and the energy of both individuals directly involved, we would not be seeing the real improvements that I am sure the petition will effect throughout Scotland in respect of patients accessing newly licensed medicines, in the process for considering objectively individual patient treatment requests and in the arrangements for the combination of care that is available to patients.

Finally, we should reflect on the fact that all of those real improvements for people throughout Scotland have been effected through the simple process of lodging a petition. The petitioner should take great pride in that.

Nanette Milne: I endorse everything that has been said, particularly with reference to the petitioner and her late husband.

My only slight reservation is that I have been contacted by a member of the Association of the British Pharmaceutical Industry, who told me that things are still not as rosy as we would like them to be within health boards and sent me a newspaper cutting to that effect.

The point being made is that although the consistency and transparency of the process are improving, patients and their clinicians still have to show exceptionality to the patient population, which is reviewed by the SMC. The person who contacted me thinks that that is a little bit perverse

because the medicine may be clinically effective for a patient, although it is deemed too expensive by the SMC, yet the patient will be excluded from gaining access to it because they are not deemed to be exceptional. It is a catch-22 situation.

The concern is a little bit premature, because the guidelines are just being developed, but I would like the Cabinet Secretary for Health and Wellbeing's attention to be drawn to the fact that the matter needs to be watched carefully, because we do not want to go through the whole process only to find that the system is still unfair for certain patients. I agree that we should close the petition, but I would like a close eye to be kept on the matter, which I hope the cabinet secretary will do.

Anne McLaughlin: It is fitting that this is the final petition that we will consider. It is also fitting, given the significance of what has been achieved through the petition, that we are closing it on international women's day. I echo everything that has been said in paying tribute to Tina McGeever, because she is a fine example of somebody who should be celebrated on international women's day and who should be extremely proud of what she has achieved. [*Applause.*]

The Convener: I am sure that there is agreement around the table with those views. Congratulations to Tina McGeever on what she has achieved.

I suspend the meeting briefly before we move on to item 2, which is on the committee's annual report.

17:27

Meeting suspended.

17:35

On resuming—

Annual Report

The Convener: Item 2 is consideration of our draft annual report. Do members wish to make any comments?

Bill Butler: Agreed. Excellent. [*Laughter.*]

Cathie Craigie: I am dying to know how many petitions we are passing on to the successor committee.

Bill Butler: I think that it is fewer than the last time.

Cathie Craigie: We inherited 122, and I want to know what we are passing on.

The Convener: That is a matter for the next item of business, on the legacy paper. However, we need to have agreement on the contents of the annual report. Are we happy with it as it stands?

Bill Butler: It is fine.

The Convener: We are happy with the contents of the annual report. Are we agreed that the date of its publication should be Monday 14 March?

Members *indicated agreement.*

Legacy Paper

17:36

The Convener: Our final item is consideration of our legacy paper.

Cathie Craigie: I would like to know how many petitions we are handing over to the successor committee. This committee received 122 petitions from our predecessor committee and I just want to know whether we beat that or were well below it.

The Convener: I will ask the clerk to say a couple of words about how we compare in that regard. I am relatively new to this committee, so it would be interesting to get a brief view from him on that matter.

Fergus Cochrane: This committee compares favourably, if I can be so bold as to say that. Before the start of this meeting, the committee had flagged up 26 current petitions that would go into the legacy paper and a further 17 have been added as a result of this meeting, so, if my arithmetic is correct, the committee will leave 43 current petitions under the legacy arrangement.

I do not yet know the number of new petitions that will go forward to the next committee, but I can say that it is very low at this point. We are working on a number of proposed petitions, and a few have gone forward to the lodging stage. However, I am not sure whether the number of new petitions will be as high as 37, which was the number that went forward from the session 2 committee to the session 3 committee. The number of current petitions that will go forward is 43, compared with the 85 that this committee inherited.

The Convener: Are there any other comments or issues to raise on the legacy paper?

Nigel Don: The clerks will forgive me if I point out a typo, because it is important that they pick it up. I cannot see a page number, so I am struggling, but I point the clerk to where the paper states:

“The Session 4 Committee may wish to consider its approach to the scheduling of petitions.”

Under the heading “New petition-only and current petition-only meetings”, the paper refers to

“only new petitions and only current petitions.”

I think that it should be “or” rather than “and”, because an either/or meaning is intended. As it stands, the meaning is the reverse of that.

The Convener: Thank you. I am sure that the clerks will find that and make it make sense.

Nanette Milne: There is another small typo. Under the heading “Chamber time”, one of the

bullet points refers to PE1150, but the paragraph below incorrectly refers to the petition as PE150.

Bill Butler: I agree with the action that is suggested at the bottom of page 3 that the successor committee

“may wish to consider adopting a timetable and strategy for external meetings.”

Our series of external meetings was successful, took the Parliament out across the country, allowed folk who live in more remote areas of the country to have direct input and made the Parliament more accessible than it usually is to them. That was a good thing and I agree with that action entirely.

The Convener: It is important to acknowledge that, as well as taking us to parts of Scotland where people find it difficult to keep in touch with the Parliament, external meetings took us to parts of Scotland where people have traditionally not had much engagement with the Parliament. The visit to Easterhouse is one example. It is important to recognise the need to keep in touch with a variety of communities throughout Scotland.

Anne McLaughlin: On PE1056, on deep vein thrombosis, the paper says:

“The Committee agreed to invite the Session 4 committee to ???”

I just wondered about that.

Fergus Cochrane: You closed that petition today—no, sorry, that is PE1065. PE1056 is the petition on deep vein thrombosis. The paper says:

“The Committee agreed (25 January 2011) to invite the Session 4 committee to consider whether it wishes to seek an update from the Scottish Government on what impact the new leaflets, information and SIGN Guideline is having. It may also wish, in the light of this update, to consider referring the petition to the next health committee.”

I realise that I had not put that action in.

Anne McLaughlin: Throughout the paper, it says “Fergus to insert text” but it did not say that in that paragraph. I was just slightly worried.

The Convener: He has inserted it, you will be pleased to hear.

Fergus Cochrane: It is there now.

Nigel Don: We will clearly not finish the paper today, although we will have to agree it today. Will you put out a final, final draft tomorrow or another time—I am not pressing you—and will we get the opportunity thereafter to register by e-mail anything that happens to concern us particularly? I do not suppose that there will be anything, but it might be helpful if we had that chance.

Fergus Cochrane: We were planning on sending it out tonight. The intention is to add the 17 petitions that you agreed to put into the legacy

paper today and get a further draft to you. If the committee is happy to agree that by correspondence, we can handle it in that way.

Nanette Milne: I notice that the original draft that you gave us of the annual report includes a list of the ministers that we have seen. Did we not see the Cabinet Secretary for Health and Wellbeing this session?

Fergus Cochrane: You did, yes.

Nanette Milne: Well, she is not in that list. It is not the original draft; it might be the second draft.

Fergus Cochrane: You are right.

The Convener: Well spotted.

Nanette Milne: I think that it was on PE1108, but I could not swear to it.

The Convener: Is it agreed that the amendments be made to the legacy paper and the final draft go round to members for agreement by e-mail?

Members *indicated agreement.*

The Convener: Do we also agree that the paper will subsequently be published?

Members *indicated agreement.*

The Convener: That concludes our meeting. It is the final meeting of the committee in this parliamentary session, so I thank and commend you all for your participation in the committee's work.

Bill Butler: Before you close the meeting, convener, it would be fitting to commend you and the deputy convener for your stewardship of the Public Petitions Committee. Both of you are going on to other fields after the election on 5 May, but I think that all colleagues would agree that you make a formidable team and should be congratulated on the contribution that you have made not only to the committee but during your 12 years in the Scottish Parliament.

Members: Hear, hear.

John Farquhar Munro: Thank you very much.

The Convener: Thank you very much. That is much appreciated.

Nigel Don: I put on record our collective appreciation of the clerking team, without whom, it would be fair to say, we might not be sure which field we were in even on a good day. They have worked across an enormous number of subjects with exemplary equanimity.

Members: Hear, hear.

Fergus Cochrane: On behalf of the clerking team—me, Franck David, Alison Wilson and Eileen Martin—and Diarmid Mogg and Stuart Kay

from the official report, I thank Nigel Don for the comments that he made. It has genuinely been a fantastic committee to clerk and I thank all committee members for their support at each meeting.

Anne McLaughlin: Is anyone else feeling emotional?

Nigel Don: No.

Nanette Milne: It is just because it is your birthday, Anne.

The Convener: I thank members for attending. It would be good if the committee could stay on to discuss a couple of housekeeping issues.

Meeting closed at 17:46.

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