



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 28 May 2013

Session 4

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**PUBLIC PETITIONS COMMITTEE**

**11<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*David Stewart (Highlands and Islands) (Lab)

**DEPUTY CONVENER**

\*Chic Brodie (South Scotland) (SNP)

**COMMITTEE MEMBERS**

\*Jackson Carlaw (West Scotland) (Con)  
Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)  
\*Angus MacDonald (Falkirk East) (SNP)  
\*Anne McTaggart (Glasgow) (Lab)  
\*John Wilson (Central Scotland) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Murray Cooper  
Jim Eadie (Edinburgh Southern) (SNP) (Committee Substitute)  
Derek Mackay (Minister for Local Government and Planning)  
Andrew Muir  
Elaine Smith (Coatbridge and Chryston) (Lab)  
Paul Wheelhouse (Minister for Environment and Climate Change)

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

Committee Room 4



## Scottish Parliament

### Public Petitions Committee

*Tuesday 28 May 2013*

[The Convener *opened the meeting at 10:00*]

### Interests

**The Convener (David Stewart):** Good morning, ladies and gentlemen, and welcome to today's meeting of the Public Petitions Committee. As always, I remind everyone to switch off their mobile phones and other electronic devices, because otherwise they interfere with the broadcasting system. Apologies have been received from Adam Ingram; Jim Eadie is attending his first meeting as Adam Ingram's substitute, so I welcome him to the committee and thank him for coming.

I place on record my thanks to all committee members and the clerking team for their support during my recent medical absence—it is nice to be back. In particular, I thank Chic Brodie for convening two meetings in my absence.

Agenda item 1 is a declaration of interests by Jim Eadie. In accordance with section 3 of the "Code of Conduct for Members of the Scottish Parliament", I invite Jim Eadie to declare any interests that are relevant to the committee's remit.

**Jim Eadie (Edinburgh Southern) (SNP):** Thank you, convener. I have nothing to add to my entry in the register of members' interests.

## Current Petition

### Wild Land (Protection) (PE1383)

10:01

**The Convener:** The next item of business is evidence on PE1383, by Helen McDade on behalf of the John Muir Trust, on better protection for wild land. As previously agreed, the committee will take evidence from Scottish Government ministers. I welcome Paul Wheelhouse, the Minister for Environment and Climate Change; Derek Mackay, the Minister for Local Government and Planning; Keith Connal, who is deputy director, natural resources division, in the Scottish Government; and John McNairney, who is the chief planner for the Scottish Government.

Thank you all for coming. I invite Mr Wheelhouse to make a short opening statement of up to five minutes.

**The Minister for Environment and Climate Change (Paul Wheelhouse):** Thank you, convener. I am pleased to give evidence to your committee as part of its consideration of the John Muir Trust petition on wild land. My colleague Derek Mackay is here, too, because the Scottish Government's proposals for protecting wild land are part and parcel of planning policy, which falls within his portfolio.

I will start with my understanding of the term "wild land". I am aware that there is no single definition and that people may have different views, although many think of wild land as remote mountain and moorland. Even when the layperson perceives land to be wild, it may in fact be the output from a managed landscape rather than natural wildness. I appreciate, too, that the quality of wildness can reflect personal expectations and can be experienced in a range of settings—even close to settlements.

However, for the purpose of today's discussion I am guided by Scottish Natural Heritage's consideration of wildness. SNH advises that four physical attributes of land can be measured and mapped: naturalness of land cover; ruggedness of terrain; remoteness; and the visible lack of modern artefacts. Taken together, those attributes constitute what many would recognise as wildness; indeed, SNH used them to produce a map of relative wildness across Scotland in 2012.

As the committee is aware, SNH continued its mapping work to advise and inform ministers in their deliberations on planning policy. The "Scottish Third National Planning Framework—Main Issues Report and Draft Framework", together with a revised "Scottish Planning Policy", were published for consultation at the end of April.

SNH's map of core wild land areas was also published.

The revised planning policy recognises the need to safeguard areas of wild land character from intrusive human development and, for the first time, there is an explicit reference to a wild land map in the planning documents associated with the consultation. The context in which the map is presented is important. First, NPF3 proposes a spatial strategy to help make Scotland a low-carbon place by reducing our greenhouse gas emissions by at least 80 per cent by 2050. To do that, we have set out the need to support onshore wind energy development in appropriate locations and, in doing so, to strike a balance between supporting development and protecting landscapes, including wild land.

The revised planning policy states that the Scottish Government does not wish to see wind farms in national parks and national scenic areas—our very best landscapes—and that we want to continue strong protection of our wildest land as identified on SNH's core wild land map. That means that wind farm development would be appropriate in core wild land areas only where significant effects can be mitigated and overcome.

The explicit link between planning policy, specifically regarding renewables, and SNH's core wild land map will provide clarity that has not previously been available. NPF3 makes it clear that ministers do not intend to legislate for a new environmental designation and that core wild land areas would not be designated under statute.

The map of wild land identifies some 20 per cent of the area of Scotland as core wild land, which is a significant increase on the position in 2002 when SNH identified, in a fairly broad-brush way, some 13 per cent of the area of Scotland as search areas for wild land. The reason for that is clear: SNH's measuring and mapping of the four wild attributes, plus use of new geographic information system technology, allows for more precision.

Consultees are asked whether they agree with our proposal that we use the SNH mapping work to identify more clearly those areas of wild land that need to be protected. Early reactions include a comment from Cameron McNeish, who is a long-time critic of wind farms. He said:

"As far as I am aware no European Government has put an outright ban on wind turbines on particular areas of their country that are seen as nationally important in terms of landscape quality. The much-criticised Scottish Government could well be the first to do so."

The John Muir Trust commented:

"We are pleased that the Scottish Government now recognises the importance of wild land as an important part of our cultural heritage and international profile."

I encourage all those who have an interest in wild land to respond to the consultation by Tuesday 23 July. Mr Mackay and I look forward to answering the committee's questions.

**The Convener:** Thank you, Mr Wheelhouse. Obviously I encourage Mr Mackay to intervene at any time if he wishes to clarify a point. I am sure that some of our questions will be directed to him as well.

I wish to clarify a couple of points for the record. Some of the points that you raised in your statement might have covered them, but I want to be totally clear. Is the John Muir Trust right to argue that core areas of wild land are not being allocated the same status as national parks?

**Paul Wheelhouse:** That is correct. I understand that the Government is, in effect, saying to the industry that we do not want onshore wind farms to be developed in national parks and national scenic areas. Wild land has additional protection over and above existing planning policy. Wind farms could be built, but only if substantial mitigation were to be put in place to overcome their effects.

**The Minister for Local Government and Planning (Derek Mackay):** To be clear, the group 1 designation as it relates to wind farms is a complete ban and wind farms are not acceptable in the national parks and national scenic areas. Group 2 designation provides significant protection and, as Mr Wheelhouse said, mitigation would have to be deployed if a wind farm were to proceed in such an area. That protection has been strengthened from where it was previously, and that is what we are consulting on.

**The Convener:** Clearly, some core wild land is not in national parks or national scenic areas. What proportion of wild land does not fall into either of those designations?

**Derek Mackay:** I could hazard a guess. I am sure that I read in a briefing note that 40 per cent—

**Paul Wheelhouse:** It is 42.3 per cent.

**Derek Mackay:** I was close. Approximately 42.3 per cent of core wild land is in such designated areas, so the remainder is not in either. That is almost 60 per cent.

**The Convener:** Thank you. I think that you covered this in your opening statement, Mr Wheelhouse, but will you reiterate that the Scottish Government will not legislate for new environmental designations?

**Paul Wheelhouse:** At this stage we have no proposals for an environmental designation of wild land.

**The Convener:** So, where is the beef with the proposals? For example, on 21 May, Highland Council, which is in my patch, raised no objection to two large wind farm developments on wild land, despite objections from SNH on wild land issues. If there is no wild land designation, where are the teeth? What is preventing speculative applications being made for large-scale developments on wild land? Why not have a designation and stop the burdens of protracted legal wrangles and costly local public inquiries?

**Derek Mackay:** We propose much greater clarity in the system. I would not want to prejudice any live or future application. The proposals that we have outlined in the national planning policy and the national planning framework will give greater clarity. We are talking not only about land designation, but about cumulative impact, separation distances and the other factors that come into play in the consideration of any planning decision. Every planning decision is taken on a case-by-case analysis and its merits are considered, so a range of issues would be taken into account and ultimately it would be for the determining authority to give weight to each consideration.

As proposed, our policies will make the position much clearer by creating the four categories and being specific about what we mean. That is why we are consulting on them. Where local authorities have a particular view, that is important, but so are the designations. It is clear what considerations will be taken into account in each case.

**The Convener:** Mr Waterhouse?

**Paul Wheelhouse:** I was Mr Whitehouse last week according to Keith Brown, but I have another new name this week. [*Laughter.*] Sorry—I could not resist that.

**The Convener:** You will get much harder questions after that reply.

**Paul Wheelhouse:** It is important to recognise that designation does not confer an absolute bar on any or all development. Even if a designation were in place, an appropriately sited development could take place. Development can take place in national parks and can be considered even in Natura 2000 sites, subject to appropriate mitigation. Some people are suggesting that if wild land were designated that would put a complete stop on any development, but it is worth stating that, even where there are environmental designations, development can still take place subject to appropriate mitigation.

**The Convener:** Does the Scottish Government have a policy of re-wilding land, as in wild Ennerdale in the lake district?

**Paul Wheelhouse:** The Scottish Government is increasingly looking at landscape-scale ecosystems projects and habitats as a whole. We will soon launch our refreshed biodiversity strategy, which looks at opportunities to restore habitats that will support species that are or could be under threat as a result of climate change. That is leading us to look at larger, landscape-scale projects and to take an ecosystems approach to protecting our natural heritage.

Wild land areas have significant conservation benefits in the sense that, because there are no competing demands in terms of development pressures, they form refuges for different species. We are trying to take an ecosystems approach in areas where there is development, as well as in areas where there is no development.

**Derek Mackay:** It would be wrong to presume that the choice is between the environment and economic growth, because both can work in harmony. The Government's overarching objective is sustainable economic growth. One example of that from the national planning framework is the central Scotland green network, whereby we are integrating economic opportunity with the protection and enhancement of the environment. In addition, we have the strategies that my colleague Paul Wheelhouse has outlined, such as reforestation and the other programmes that are interplaying with ecosystems.

The planning system is about having the right development in the right places, and that includes protecting the environment. I believe that the balance that we propose to strike between greater protection for valued parts of the environment and growth, where appropriate, is the right one.

**Chic Brodie (South Scotland) (SNP):** Good morning, ministers, Mr Connal and Mr McNairney. Minister, there is no such thing as wild land, is there?

**Paul Wheelhouse:** As I said in my opening statement, there are issues of subjectivity in defining what wild land is. As ministers, we have had to fall back on a more scientific, evidence-based approach to developing our understanding of those areas that are most in line with what people perceive to be wild land. That is based on SNH's four characteristics, to which I referred earlier. You are absolutely right, however, that there will always be an element of subjectivity in defining what is wild and what is not. As I said, many of our landscapes that, from a lay perspective, people would perceive to be wild are the result of managed activity over a long period.

**Chic Brodie:** I hear what you say, minister. You mention SNH. At a previous meeting, the chief executive of SNH said:

"We cannot offer a clear definition of what is or is not wild land".

That was followed by the chairman of SNH saying:

"we have been seeking to get a tighter definition that will help everybody."—[*Official Report, Public Petitions Committee*, 16 April 2013; c 1235, 1243.]

What is the point of SNH if it cannot come up with the definition that you are looking for?

**Paul Wheelhouse:** I have seen the quotations from Ian Jardine at that meeting, and I appreciate where you are coming from. However, the problem is that it is such a subjective issue. If you lined up 100 people in front of an area of landscape and asked them whether they regarded it as wild, you might get quite different answers from those individuals.

**Chic Brodie:** That is the point: the debate is not about wild land at all, but about wind turbines. You mentioned wind farms five times in your opening statement, and I have reams of paper in front of me that mention them. The issue has nothing to do with wild land.

10:15

**Paul Wheelhouse:** One of the four characteristics concerns the degree to which land contains "artefacts"—that is the term that SNH uses—and whether there is obtrusive human development in that context. That is one of the objective criteria on which SNH has based its map.

It is clear that large onshore turbines in particular—and, to be fair, other man-made structures such as pylons—can impact on the perception of a place as wild, but those criteria are a relatively objective basis on which to proceed.

**Chic Brodie:** Let us try some more objectivity, given that I am saying that the debate is largely about wind farms. The wild land research institute at the University of Leeds produced a report for the Scottish Government. It mentioned wild land, but it went on to state:

"In Scotland, effort to safeguard wild land has focused on maintaining the qualities that are valued for recreational"

purposes.

So, we do not want wind turbines, but everybody can traipse across the land as much as they like. Is that the case?

**Paul Wheelhouse:** It is not. Our position on wild land is about much more than the issue of whether people can use it for recreation. My view is based on previous planning policy—

**Chic Brodie:** But land is not wild if it is being used for recreational purposes.

**Paul Wheelhouse:** It is wild land. In some cases, people access wild land using man-made structures such as roads, so there is some degree of intrusion by man into those locations. Existing planning policy states that

"most sensitive landscapes have little or no capacity to accept new development. Areas of wild land character in some of Scotland's remoter upland, mountain and coastal areas are very sensitive to any form of development"

—not just wind farms—

"or intrusive human activity, and planning authorities should safeguard the character of those areas in the development plan."

I accept that our debate today centres largely on wind farms, Mr Brodie, but there is a need to protect wild land from obtrusive human development of more than one type. It is not just about wind farms, although they are the most current example of development pressure in those areas.

**The Convener:** Would Derek Mackay like to come in?

**Derek Mackay:** Thank you, convener. My energies are spent where they are required, and they have been required in this particular area because there have been clear calls to clarify matters. The planning policy review, which we are conducting at the same time as revising the national planning framework, which is set out in statute, is important in the transition to a low-carbon economy and in realising this country's immense potential. In that context, there is an opportunity to clarify existing policy.

Mr Brodie is correct that the designation and specifications for wind turbines and wind farms are separate from other development issues. Again, the overarching objective of sustainable economic growth continues, but we are giving greater clarity on the appropriate areas of search for local authorities in finding the right place to locate turbines.

SNH is the adviser on relevant natural heritage matters, and it has drawn up a designation of what it perceives to be wild land. That involves, of course, a different designation and category from what SNH has given us before. The designation of areas of wild land is more robust and sophisticated than the previous designation, and rests on the basis of the four key themes of perceived naturalness of land cover, ruggedness of terrain, remoteness of public roads and a visible lack of buildings. That designation feeds into the maps, and GIS technology is used to inform what is appropriate in the group 2 category as it relates to wind turbines. Of course, if we are having a different discussion on general development, that involves a slightly different perspective.



The new designation has increased the amount of wild land. Since the previous zoning, areas of search have been designated as areas of wild land. The percentage of core areas of wild land has gone from 12.7 per cent in 2002 to 20.3 per cent in 2013. That has informed our work, and we are consulting on that presumption. However, the member is absolutely correct that different factors come into play if we move away from wind turbines to other kinds of development. That is why I would return to the core of planning policy, which is that each case is determined on its merits, looking at the range of planning policies and advice notes that come into play.

I hope that that assists the member.

**Chic Brodie:** That is very helpful. Can you help me with another point? On the basis of the mapping work that SNH has done, who owns the land and what discussions have taken place on their land being defined as wild land?

**Derek Mackay:** The planning system is generally blind to ownership for any application; it looks at the characteristics of the application, as opposed to the ownership of the land. However, we take into account, as a material consideration, the community benefit and economic impact of any application. My proposals that are being consulted on give even greater weighting to economic impact as a material consideration in any planning application. However, we are generally blind to ownership, because the planning system should be about land use and not who owns land.

**Paul Wheelhouse:** We can relate this discussion to SNH's purposes, one of which is to secure the conservation and enhancement of nature and landscapes. That is similar to the planning system, in that it does not have to take into account who owns the land. It would be a farce if we protected a landscape that was deemed to be of value but then, if it came under private ownership, suddenly did not want to protect it any more because we did not have any control over it. We have to take into account the value of our landscapes, irrespective of who owns them. We are blind to ownership in a similar way to the planning system.

**Chic Brodie:** I understand that, but it would be helpful to know about ownership, given that another parliamentary committee found that only 21 per cent of Scotland's land is registered and we do not know who owns the land. Given the discussions that we have had with regard to wind farm applications in particular, one would hope to have a much stronger emphasis on community ownership than on the propagation of wind farms through private land ownership. If a landowner of our designated wild land decides that they want to do something along the lines of wind farms, or

something for recreational purposes, I do not see how you will overcome that.

**Paul Wheelhouse:** As the minister responsible for the land reform review group, I know that, to a significant extent, the second phase of the group's work will focus on community ownership. I hope that the group will debate the issues around that. The group will take into account, as a key consideration, who gains from renewables projects and from other economic development in particular areas.

**Chic Brodie:** SNH's mapping work took two and a half years to produce and the NPF3 indicators will take three years to produce. How can a Government body be allowed to move the goalposts? Does it do enough checking beforehand about what is involved? Does it take a finger-in-the-air approach to some things? What monitoring is done of bodies such as SNH to ensure that they achieve delivery of projects as and when they said that they would be delivered?

**Paul Wheelhouse:** SNH is subject to annual review, just like other parts of the public sector. I am aware that it took a long time to develop the maps, but the process involved a number of different iterations. Even for the maps that we now have, a degree of judgment was involved for SNH on what criteria to use. Once that was determined, SNH took a scientific approach to developing the outputs so that they were evidence based. All that takes a certain amount of time. In due course, we can consider whether the process could have been faster. However, we have the maps now.

I encourage those who have a view on the maps' use in respect of NPF3 and the planning policy to take part in the consultation, which closes on 23 July. There is ample time left for people to feed in their views on the appropriateness of the maps being used and any concerns about how they have been generated.

**Derek Mackay:** By way of reassurance to the member, I add that I meet regularly all key agencies that interface with the planning system. There are targets for how they perform, and I have senior, high-level meetings with them regularly to ensure that they live up to the Government's expectations and contribute to a team Scotland approach to our overarching objective, which, I repeat, is sustainable economic growth.

**Jim Eadie:** I am not sure that Edinburgh Southern has much in the way of wild land, although we have some protected and beautiful green space.

In his opening remarks, the Minister for Environment and Climate Change said that statutory designation does not confer a bar on development, and that development can still take place, subject to appropriate mitigation. When you

were weighing up whether to provide a statutory designation for wild land, and were, no doubt, being advised by experts on what the appropriate course of action would be, what was the compelling argument that led you to decide that wild land should not be given the same status as national parks?

**Paul Wheelhouse:** We took into account the fact that any such designation would potentially require a hard line on the ground. As Chic Brodie pointed out, there is always a degree of subjectivity around wild land, even when the map, ultimately, has been based on a rigorous approach, following a subjective judgment about what criteria should be put in place, and has been generated in a scientific way. There is always an element of disagreement about what constitutes wildness and wild land. We took the view that we did not need an extra designation. For example, with regard to onshore wind, our main focus is on identifying the main areas of wild land character that are significant in a national context.

**Jim Eadie:** Is it just a question of definition, then? You can define a national park, but you cannot easily define a piece of wild land.

**Paul Wheelhouse:** That is a fair point to make, Mr Eadie. It is much easier to deal with an absolute boundary, such as a national park boundary. Wildness is a hard thing to pin down.

**Anne McTaggart (Glasgow) (Lab):** What involvement did the Scottish Government have in setting the timetable that Chic Brodie alluded to earlier?

**Derek Mackay:** Anne McTaggart will be well aware of the discussions around the national planning framework and the Scottish planning policy, because we discussed the issues just last week at a meeting of the Local Government and Regeneration Committee, when I think I went into some detail about engagement and the participation process on those policies.

I am not compelled to consult on the Scottish planning policy in the same way that I have to consult on NPF3, but the Government took the decision to do so. We have published a participation statement that sets out who will engage with whom and how, where, when and why that will take place. All of that is in the public domain. There will be parliamentary scrutiny—indeed, that process kicked off last week at the committee meeting that I mentioned. The main issues report will progress to a recommendation that will be considered by Parliament in relation to the Scottish planning policy. Given the timescales and the 12-week consultation period, we can implement the policies by the end of this year or at the very start of next year. However, in relation to

the statutory timetable, NPF3 will be adopted in June 2014.

I thank the member for giving me the opportunity to make the point that existing policies apply until new policies are adopted. That is an important point to make.

There is full and comprehensive engagement on all our proposals for the planning policies. The member can be reassured about the breadth and depth of stakeholder engagement, which will go from the man and woman in the street to the academic experts in particular fields of expertise.

**Jackson Carlaw (West Scotland) (Con):** I am very impressed with the co-ordination between our guests. They are quite the Ant and Dec of the ministerial tower.

We have seen the map from Scottish Natural Heritage. Did either you or your predecessors or officials see an earlier version of the map that included a greater spread of land that would potentially be defined as wild land?

**Derek Mackay:** I have seen many variations of the maps as they have emerged and evolved over the period. Indeed, in the national planning framework 3 documents that are published, there is a variation of the map. Yes, I have seen variations of the maps, as well as previous and new maps. There is a range of illustrations of what Scotland looks like depending on the indicators, definitions and specifications that we choose to deploy. We have arrived at what we felt was the right balance, which leads to the figure that I already mentioned of around a third of the country having significant or greater protection through the policies on wind farms.

10:30

**Paul Wheelhouse:** The only maps that I have seen that have shown a wider extent of coverage were relative wildness maps that underpin the core wild land map to which we are now working in the NPF3 and Scottish planning policy consultations. I have seen no map that has had a wider definition of core wild land, if that is the point that you are making, Mr Carlaw.

**Jackson Carlaw:** So you can both offer the committee the assurance that at no point did you as ministers, your predecessors or your officials have a conversation in which you suggested to Scottish Natural Heritage that you would prefer a scaling down of any plan to define wild land.

**Derek Mackay:** It is perfectly acceptable for SNH to produce any map that it chooses and it is then for ministers to determine what advice they take forward to put in their proposals. It is then for any committee or any member of the Parliament to propose an alternative. We have used the map of

wildness that we think is appropriate for the purposes that we have set out but, of course, there are alternatives that other members may wish to choose. We could draw up a map of Scotland that said that there should be no wind farms or development anywhere, but we think that we have struck the right balance.

**Jackson Carlaw:** I am not asking for that. I was simply asking—and I do not think that I have quite got the assurance that I sought—whether you as ministers, your predecessors or your officials had a conversation with Scottish Natural Heritage in which you invited it to produce a map that reduced the scope of the wild land proposal.

**Derek Mackay:** No. We have asked for advice on what considerations can be taken into account. For example, the definition that we have provided, which I mentioned earlier, with the four key characteristics of wild land, has produced a map. That is what we have included in our consultation document and environmental impact assessment and it is what I propose to use to guide planning policy in future.

**Paul Wheelhouse:** For my part, I have not asked SNH to scale back the coverage of wild land. However, I cannot speak for my predecessors, so I ask Keith Connal to confirm my understanding of the position before I was a minister.

**Jackson Carlaw:** I am grateful for that.

I will not ask how many wind turbines there are but, having approved so many of them, you will be able to tell me the average height.

**Derek Mackay:** Mr Carlaw's probing question may be appropriate, but I will have to go back and see whether we hold such information. I do not know it off the top of my head.

**Jackson Carlaw:** The reason why I ask is that you talked about mitigation. I understand how we can mitigate against a bothy for hillwalkers or a visitor centre, but I am not sure how we mitigate against a wind turbine that may be several hundred feet tall. Do we paint it as a giant thistle? When you talk about mitigation as being the protection against the development of wind turbines on wild land, I am at a loss as to what the mitigation is.

It seems to be that it is lily livered of you to decide that you are not going to underpin the policy in statute. It is all very well for erudite, virile and thrusting ministers to make bland assertions and say that, with mitigation, there need not be any concern about the development of wind turbines in wild land, but give me an example of the sort of mitigation against a wind turbine that you would think appropriate.

**Derek Mackay:** For example, we would not paint it the colours of a thistle, as I dare say that that would draw attention to it. An example of mitigation is location so that wind turbines are not in a particularly prominent place. A site can be moved and wind turbines can be screened. Cumulative impact is also a consideration. Those are examples of how turbines can be located so that they are not as prominent as they might otherwise be.

**Jackson Carlaw:** I am not sure that that is really a definition of mitigation. In essence, no particular protection arises as a result of the Government's favoured approach.

**Paul Wheelhouse:** A number of factors might be taken into account with regard to the impact on the landscape, such as the height of the turbines. There could be a revised proposal, in which the turbine height came down. As Derek Mackay alluded to, the turbines could be resited to a different position so that they were less intrusive, and the number of turbines could be varied. There are means by which the impact of a proposal might be mitigated short of removing the turbines altogether.

**Jackson Carlaw:** I am grateful and that is helpful. In essence, you are saying that wind turbines can carry on regardless, provided that they are of the right height, that they are in the right quantity, and that from a particular angle they cannot be seen. Is that fair to say?

**Paul Wheelhouse:** I do not think that I said "carry on regardless", although I am sure that that is a good movie.

**Jackson Carlaw:** There is no protection. Your desire and wish is that those factors should be taken into account, but there is no statutory underpinning of that. It is just your opinion, rather than being any particular authority that would be required to be observed.

**Derek Mackay:** I would cite much greater authority than myself. I would cite, for example, Mary Scanlon MSP, who said in debate that we have been waiting a long time for these policies and that she welcomed them, or Murdo Fraser, who said that the Government was stealing the Conservatives' policy. It appears that there is some support for the policy approach—the preferred approach, as Mr Carlaw has described it.

For example, we also propose an extension of the distance from settlements, cities, towns and villages at which turbines can be located from 2km to 2.5km. I know that the Conservatives' preferred distance is 2km, but we propose to extend that somewhat in view of the opinions that local communities quite rightly express.

I say again that it is for local planners to determine applications based on the circumstances that are presented, to get the right development in the right places. Jackson Carlaw said that there was no greater protection. In fact, we are proposing a complete ban in some parts of Scotland and greater protection in another third. If you consider the proposals on separation distances and cumulative impact, as well as the urban nature of the rest of Scotland, you will see that there has been quite a substantial shift in our position. It strikes a balance between transition to a low-carbon economy and protecting the environment.

**Paul Wheelhouse:** Mr Carlaw suggested that we “carry on regardless”. There are other factors that are taken into account in any application of any type in an area that has an environmental designation, such as impact on natural environment more generally, including wildlife issues, hydrology and so on. A number of factors are taken into account, not just visual impact.

**Jackson Carlaw:** Mr Mackay, we tend not to pursue matters along partisan, party-political lines in the Public Petitions Committee. I am here to represent the interest of the petitioner. He has made these points to me and I am simply representing them to you.

**Derek Mackay:** I fully respect that. I am simply relying on great sources of information from your party.

**Jackson Carlaw:** That was said with all the sincerity that you can muster for your best performance, minister.

I return to the fact that an underpinning of this in statute, which I think is what the petitioner seeks, would afford the sort of protection that is looked for. I understand the point about general development, but surely even you can draw a distinction between the sort of sympathetic development that is of assistance to those who take advantage of wild land and the slightly more commercial development of wild land with something as intrusive as a wind turbine. I accept your proposition that that underpins a lot of this, but does something more than just your hope underpin it?

**Derek Mackay:** Planning policy is generally not a matter of statute; it is generally a matter of policy, although of course there are questions around interpretation. The petitioner may have a view about a statutory designation, but the planning system just does not work like that. The planning system is guided by a planning hierarchy, which starts with NPF3. The process is statutory, but the policies that it produces are not. There is then the Scottish planning policy and development plans. How we arrive at that must be fully

transparent, fair and robust, but it does not lead to statutory designations; it leads to planning policy.

We are deploying the same approach to this. Imagine that every time we wanted to change maps, designations or any matter for consideration we had to take it through primary legislation. It would be completely disproportionate. The Government’s view is that this is the most proportionate and fair process to take.

**Angus MacDonald (Falkirk East) (SNP):** Good morning, gentlemen. I wish to explore further the definition of wild land and how it fits in with local authority development plans. Mr Mackay has already touched on this. The draft SPP states, at paragraph 129:

“Plans should identify and safeguard areas of wild land character. This should be based on Scottish Natural Heritage mapping of core wild land, published in 2013. Wild land character is displayed in some of Scotland’s remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development.”

Does the draft SPP provide adequate clarity for local authorities in drawing up their development plans?

**Derek Mackay:** Yes, I believe that it does. That particular paragraph is not a major shift from existing policy. There is a distinction between the policies that are relevant for the wind turbines and those that are relevant for other developments. There are considerations around both. Because there has been no significant shift in the policy as it relates to other developments, I would imagine that there is a degree of clarity and consistency there.

To assist with planning authorities, which are facing some challenges right now, there is a 20 per cent increase in planning fees, which will lead to a better resource planning system. We have also given one-off grants to help with the capacity of planning authorities for renewables and other areas. For example, £20,000 has gone to Heads of Planning Scotland. I am convinced that there is clarity and consistency around the policy and how authorities approach their local development plans. With the extra resources, authorities will have the capacity to see through some of the pressures that they face at this time. I hope that that answers the member’s question.

**Paul Wheelhouse:** The SPP states that strategic development plans should identify capacity for onshore wind and cumulative impact pressures. It says that local development plans should set out spatial frameworks. The existing SPP enables local authorities to group local designations with national and international designations as areas to be protected from wind farm development. The approach that was proposed in the consultation, and therefore in the

draft SPP, makes it clear that local designations should not be given the same weight as national or international designations. That gives clarity as to the hierarchy, as the Minister for Local Government and Planning has said.

**Angus MacDonald:** Ministers, you clearly believe that the guidance is adequate, but are there any plans to provide further guidance for local authorities, given that there have been inconsistencies in implementation across the country to date?

**Derek Mackay:** Yes, there will be guidance, of course. If we amend the Scottish planning policy and national planning framework 3, as we propose, that will require new guidance. There will be new guidance as a result of both documents. That is necessary and helpful. That will not be a panacea for local planning authorities—it is not as if every planner will then have the magic answer for every difficult application—but there will be policy clarity, and there will be guidance to assist with that. Furthermore, there has been extra resource.

**Paul Wheelhouse:** Where I am looking from—from the perspective of SNH and from my side of the house—I would wish to ensure that there is as much clarity as possible about how to interpret cumulative impact in respect of the spatial frameworks. The spatial frameworks will be increasingly important. There might be potential for a local authority to feel, on the basis of the evidence presented to it, that the cumulative impact has reached such a point that the land concerned has to be moved from group 3 to group 2. We need to give authorities clarity about how that works, and we need to give clarity to applicants, too, so that they understand the process.

**John Wilson (Central Scotland) (SNP):** I wish to follow up on some of the questions that have been asked by my colleagues, in particular on the issue of why there seems to be an emphasis on wind turbines, with no reference to hydro power stations, telecommunications masts or pylons, for instance. I refer to recent developments and the height of some of the pylons that are going to be strung across Scotland. My understanding is that some of them will be greater in height than some of the turbines that are going to be sited at wind farms.

Issues are also arising more and more often to do with hill tracks that are created by landowners. How do the ministers tie in such issues with what the Government is attempting to do in developing its policies and guidance to ensure that we can reflect the issues in relation to many types of development, rather than just concentrating on wind farms and wind turbines?

I also take some exception to what Jackson Carlaw said about individual wind turbines. When I look out every morning to the farm across the back from me and when I drive up to the house, I see a wind turbine that sits there on its own and can be viewed for miles around. For many residents in my area, that single wind turbine has greater visual impact than a wind farm would.

10:45

**Derek Mackay:** The Government has every intention of meeting our renewable energy targets and delivering the transition to a low-carbon economy. Mr Wilson asks why we spend so much time on wind turbines; we do so because that is what we have been asked to do and because that is where there have been a number of questions about pressures in the system. Mr Wilson and Anne McTaggart will recall that, when I outlined the full vision of the national planning framework and the Scottish planning policy last week, I covered a great deal of issues in addition to renewables.

On the important issue of hill tracks, again there is a balance to be struck between regulation or perceived overregulation through the planning system and supporting economic activity in the rural parts of Scotland. Following our consultation on that, we came to the view that we would continue monitoring and taking further evidence on the issue but we would not introduce full planning applications for every aspect. Of course, planning applications are required for hill tracks in some areas, and we are launching new guidance to ensure that hill tracks are built to an appropriate standard. We are not close minded on the issue, although it was consulted on in the previous planning consultation. There is an important balance between protecting the environment and allowing agricultural and forest activity, but for many other functions planning applications are already required.

**Paul Wheelhouse:** Let me just add one point on the issue of pylons that Mr Wilson raised. Where it has been possible, practical and environmentally sustainable, undergrounding has been sought on a number of occasions, but clearly a balance must be struck. Sometimes it may be more appropriate to go overground rather than underground, if there would be greater damage to peatland or other important habitats from undergrounding, which would require taking out a trench the full length of the cable. Yes, pylons have a visual impact, but in some cases that will be potentially less damaging to the wider environment than undergrounding the cables.

**John Wilson:** I thank the ministers for their response.

My final question follows on from Angus MacDonald's earlier question. How do we ensure that we get consistency from local planning departments in their interpretation of designations and of the guidance that is issued by the Government? Developers need to be able to understand the Government's requirements on siting, design and mitigation for major developments, given that developers as well as planning departments can make inappropriate demands in applications. It is left up to individual local authorities to make decisions but, despite Mr Mackay's assertion, in many cases they need more resources if their local planning departments are to give better consideration to planning applications. How do we ensure that we have a consistent approach throughout Scotland, including among developers?

**Derek Mackay:** I am not sure that I would agree with the member's generalisation, but the proof of the pudding is in the eating, so let me pick two organisations that have commented on the policy. The John Muir Trust said:

"We are pleased that the Scottish Government recognises the importance of wild land as an important part of our cultural heritage and international profile."

Arguably, that is a welcome for what is a step in the right direction. At the other end of the spectrum, the director of policy for Scottish Renewables is reported as saying:

"Onshore wind is absolutely key to meeting Scotland's climate change and renewable energy targets and excluding large areas of the country suitable for wind farms could potentially slow progress to achieving these objectives."

However, she went on to say that Scottish Renewables appreciates that clarity is required. I also draw the member's attention to the fact that the proposed policies have been welcomed by Heads of Planning Scotland. They are the practitioners who will have to implement the policies, and they are content with what we propose.

Developers, representatives of the environmental lobby and the practitioners are all giving a warm welcome—if I can describe it as that—for the proposed policies. That said, I cannot say that there will never be local discretion or an inconsistency in the system. Different parts of Scotland have different characteristics and will, therefore, interpret the policies differently. It would be wrong of us, in Edinburgh, to try to create a formula that would prejudice every application other than the ban that we have proposed for group 1. I cannot guarantee that there will never be inconsistency, but there will be clear policies that can be interpreted and delivered locally.

**The Convener:** We are a bit short of time, so I ask for a quick final comment from Chic Brodie.

**Chic Brodie:** It goes back to the lack of a definition of wild land. Last night, the BBC ran another episode in its series about the introduction of wildlife in the Hebrides. In your opinion, is it okay to have defined wild land inhabited by the creatures that inhabit it and yet have people out there shooting grouse and stags and fishing for salmon in some areas? Why is that acceptable when the production of energy for future demand is not acceptable?

**Paul Wheelhouse:** According to the definitions that SNH has used in building up its core wild land map, it is about structures rather than deer and people running around shooting deer. I take your point about the need to protect the environment and about the impact of sporting activities on the natural habitat. In many areas, however, shooting is essential to the management of deer numbers to ensure that habitats are protected from overgrazing. I recently saw some published statistics on protected features, and some of the most endangered protected features are overgrazed by deer, sheep or a combination of the two. Wildlife obviously has an impact on our natural environment, but the definitions that SNH has used in preparing its core wild land map do not include consideration of species, whether or not they are being hunted. It is about built structures and the degree to which landscapes are impacted on by obtrusive, man-made development.

**Derek Mackay:** I bow to my colleague's greater expertise in wildlife and rural matters. At the core of your question is the issue of balancing the production of energy with other forms of land use. The Government is content that we can meet our renewables targets and our climate change targets, which are the most ambitious in the world, by affording greater protection to the high-quality environment that we enjoy as well as by deploying policies that ensure that we will meet those targets, which include greater offshore development and repowering existing sites. The notion that the rest of the country will be blanketed with wind farms because of that policy is nonsense. We will strike the right balance between protecting the environment, continuing our sustainable economic growth agenda in a balanced way and getting the right developments in the right places. Scotland can clearly capitalise on renewables technology because of the environment that we are blessed with.

**The Convener:** Mr Wheelhouse, I will give you the chance to add to that briefly. I mispronounced your name earlier and you are due something back.

**Paul Wheelhouse:** Thank you, convener. Climate change is, of course, one of the greatest threats that our landscape faces. As Mr Mackay

has said, it is important to get a balance in ensuring that we are able to develop our renewable energy, because if we do not, vital landscapes such as South Uist and other parts of the Hebrides will potentially be vulnerable to rising sea levels and the extreme damage that we may face from climate change.

**The Convener:** We have had a very interesting session with our witnesses, and I know that we could have gone on for a lot longer. I ask the witnesses to stay while we consider the next stage.

There is a suggestion in our recommendations that we consider referring the petition to the Local Government and Regeneration Committee, as it will, of course, be looking at national planning framework 3 and reviewing the Scottish planning policy. However, as always, it is for all members of the committee to decide what action to take. I seek members' views on the next steps.

**Chic Brodie:** On the basis that we are all struggling to define what we are trying to do and approaching the matter through different frames of reference, I wonder whether there is any other appropriate action that we can take. The issue has been aired significantly, and we have thrashed out all the views as thoroughly as we can. I am not sure that it is right to dump the petition on the Local Government and Regeneration Committee to go round the same loop.

**John Wilson:** Chic Brodie is right. We have had an opportunity to look at the issues, and I am minded to close the petition.

**Anne McTaggart:** I am likewise.

**Angus MacDonald:** The views of the John Muir Trust have been well aired and taken on board by a number of bodies, so closing the petition would be fair enough.

**Jim Eadie:** As a substitute member of the committee, I will on this occasion defer to colleagues, who have considered the issue in greater depth than I have.

**Jackson Carlaw:** As ministers have set their face against the petitioner's design to move the proposal into statute, there is little more that the committee can do. I accept that the issues have been well aired and think that the debate will move elsewhere now.

**The Convener:** The committee's overall view is clear. We need to close the petition, not because we are not interested in it but because the Government's position is quite clear.

I thank the John Muir Trust for the petition, and particularly Helen McDade, who has done a lot of hard work on the issue. The committee has

learned a lot about the quite technical details that are involved.

We thank our witnesses for coming to the meeting. The session has been very useful. The area of work is quite difficult, but you have performed well going through your paces, as Jackson Carlaw said earlier. The issue will run and run in the long term. I appreciate your time.

10:57

*Meeting suspended.*

10:58

*On resuming—*

## New Petitions

### A90 Dualling Project (PE1478)

**The Convener:** Agenda item 3 is consideration of two new petitions. The committee previously agreed to invite the petitioners to speak to both petitions.

The first new petition is PE1478, by Murray Cooper, on the A90 Balmedie to Tipperty dualling project. Members have paper 3, which is a note by the clerk, the Scottish Parliament information centre briefing, and the petition.

I welcome the petitioner, Murray Cooper. Thank you for coming to the meeting. I ask you to make a short statement of around five minutes, after which my colleagues and I will ask questions before we decide on a course of action.

11:00

**Murray Cooper:** Good morning, everybody. I am not here today to argue the case for the upgrading of the 11km section of the A90 or to say that it is urgently required because those are facts that are universally agreed and accepted. That is why the Scottish Government has already consulted on, planned and designed the project, and why it had matters in hand for the work to be started in 2009 and completed in 2013.

Transport Scotland's website says:

"These improvements will provide continuous dual carriageway between Aberdeen and Ellon, which will remove the bottleneck caused by the existing single carriageway".

The website also notes that the situation has caused much distress to the local community, which has been pressing for the upgrade for a number of years.

The case is clear. The improvements are required. They have been designed and approved and are on track—at least, they were in 2009. Unfortunately—that might be the wrong word—in 2011, somebody decided to merge the project with the Aberdeen western peripheral route. Based on the potential cost savings to be gained from combining the two projects, it was probably a good idea at the time. However, "was" is the key word in that sentence. At the time, Road Sense had not begun its relentless legal challenges, the commencement of which caused both projects to be delayed. Despite the fact that we have asked local MSPs and Scottish ministers to explain why the two projects should remain combined, we have

never been given any reasonable explanation for that.

As members will be aware, the legal challenges eventually came to an end. Since then, the Government has developed a timeline for the development of both the AWPR and the Balmedie to Tipperty section of the A90. The projects are out to tender and contracts will be awarded in autumn 2014, with work to be completed in 2018. Within that timeline, there is no clarity about when the Balmedie to Tipperty section will be completed. Based on the information that is available to the public, it seems unlikely to be completed before 2016, and its completion could be as late as 2018.

From the petition, you will be aware of some of the questions that I have asked various MSPs and the Government. I did not really get many answers to those questions.

The A90 north of Aberdeen is the only transport route for people in the north-east of Scotland. We do not have a rail link and we do not have an alternative A-class road. This road is it. Peterhead, Fraserburgh and Ellon are the largest, second-largest and sixth-largest towns in Aberdeenshire, and it is estimated that the road supports around 80,000 people commuting into the Aberdeen area.

As you are aware, Peterhead is a major oil and gas services port, and it and Fraserburgh account for 45 per cent of all fish landings in the UK. All that produce has to travel along the road, as does all the produce from the local farming communities and other industries. The main hospital for the area is the Aberdeen royal infirmary. Anyone who has had an emergency or is suffering from a long-term illness has to travel along the same route.

A large population base uses the A90 to commute from those towns and the surrounding areas to Aberdeen every day to work. They have no option, as public transport also uses the same section of road. The local park-and-ride facility opens on to that section of road, as well.

I have a list of questions for you guys to consider, but the key point is that unless there is a clear commitment to deliver the upgrade to the road in line with the original promise, the long-suffering and hard-working people of the north-east of Scotland will remain stuck in daily traffic jams to get to their place of employment, the markets for their goods, their health services and their education services for many years to come. The view seems to be that we should be happy to wait until 2018 to see any improvements to what is clearly some of the poorest infrastructure in Scotland just because somebody somewhere has decided—without reasonable explanation—that that is right. Surely that is not acceptable to the Scottish Parliament.



**The Convener:** You make a strong and compelling case. I understand the frustration that you and people in communities in your area must feel day in, day out.

It is easy to go back in time and rewrite history, but would you say that it was a mistake to link the project to the AWPR development? Obviously, the legal challenges were not the Scottish Government's fault; they were done by someone independently. Do you think that the decision to link it is what caused the main delay in the project?

**Murray Cooper:** Subsequent to the legal challenges, the linking of the projects has caused the main delay. I do not think that it was a bad idea at the time. I am an operations manager in a FTSE 100 oil services company, so I know about making tough decisions on such matters. However, people can also review what has been done and decide whether it is still the right course of action.

**The Convener:** Could the Balmedie to Tippetty project be disconnected from the umpteen western peripheral route projects at this late stage?

**Murray Cooper:** Yes, absolutely. Anything is possible, if there is the will.

The questions that I have asked and which are part of my petition have not been answered. No one has explained in detail why combining the projects was the right decision in the first place. I have made my own assumptions, including on costs, which I think are appropriate. However, no one has documented savings versus the cost of the delay.

**The Convener:** Do you have questions that are separate from and independent of the petition? We often send petitions to the Scottish Government for comment. We would welcome sight of any such questions, which you should give to the clerk. I am sure that committee members want the Government and Transport Scotland to look at and comment on your questions.

**Murray Cooper:** My questions reiterate those that I sent in my original letter to the Minister for Transport and Veterans. How was the decision made? What data set was used to make the decision? Is the decision still valid? Are there alternative options to be looked at? Even with a combined scheme, are there clever things that the Government could do in tendering to accelerate and commit to the early delivery of certain parts of the project?

**The Convener:** Those all seem sensible to me. I throw the floor open to committee members for comments. At this stage, my instinct is to ask the Scottish Government and Transport Scotland for their views on Mr Cooper's petition and a

response to his questions, but members may have other views.

**Chic Brodie:** You have covered most of the matter, convener. Although I have some sympathy with the petition, we know that the project will not be completed by mid-2014, which is what the petition asks for. On that basis, the petition should fall. However, there is no harm in asking for further clarification. I am sure that there must be good reasons, not just related to cost but related to construction, as to why the project was bundled with the AWPR, and we know what happened to that project.

**John Wilson:** The note that we have in front of us is clear that the Balmedie to Tippetty project and the Aberdeen western peripheral route project are out to tender. If we are going to write to Transport Scotland and the Scottish Government, it would also be useful to ask Aberdeen City Council, as the managing agent for the contract—in effect, the Government and Transport Scotland have handed the matter over to Aberdeen City Council to progress—about whether separating out the contracts or the timescale would be problematic. It would be interesting to find out whether it would be possible to bring into the tender—without having to rewrite it—some phasing of work in a timescale that the petitioner would find more appropriate.

**The Convener:** Do members agree to John Wilson's suggestion?

*Members indicated agreement.*

**Anne McTaggart:** It is important that we keep the petition open and, as John Wilson has suggested, that Aberdeen City Council, Transport Scotland and the Scottish Government clarify matters and respond to the questions that the petitioner has brought to us.

**The Convener:** We will continue the petition and seek advice and information from Transport Scotland, the Scottish Government and Aberdeen City Council. We will keep in touch with Murray Cooper through the clerks and keep him up to date with developments.

I thank Mr Cooper for travelling through to Edinburgh and for taking time out of his busy job to put the petition to us in person.

**Murray Cooper:** No problem, and thank you for your time.

11:09

*Meeting suspended.*

11:10

*On resuming—*

### **Solicitors (Complaints) (PE1479)**

**The Convener:** The second new petition is PE1479, by Andrew Muir, on complaints about solicitors. Members have a note by the clerk, which is paper 4, the SPICe briefing and the petition. Jackie Baillie, who is Mr Muir's constituency MSP, had hoped to come along today but, given that the timing coincides with the meeting of the shadow cabinet, it is probably unlikely that she will make it.

I welcome the petitioner. Thank you for coming along, Mr Muir. I ask you to make a short statement of around five minutes, after which we will ask questions.

**Andrew Muir:** Hello. Thank you for allowing me to speak.

In the run-up to the independence referendum, I am trying to make Scotland a fairer and nicer place to live in, and to make services more accountable. That is the point of my petition and of my previous petition about the Scottish Public Services Ombudsman, which I spoke to the committee about last year.

The legal profession is very powerful in Scotland. Members of it can be very highly paid. Given their importance, it is essential that they come under the highest possible level of scrutiny and accountability. It is ridiculous that complaints can be made only within one year of an event happening. I would like to briefly share my complaint experiences.

The report, "Limited Review of the Mental Health (Care and Treatment) (Scotland) Act 2003", was presented to Scottish ministers in March 2009. On page 41, it states that a major issue concerning mental health tribunals was the

"availability, quality and style of legal representation."

On page 43, it states that the quality of legal representation was poor. Unfortunately, nothing has changed to correct those matters since 2009.

My wife was put under compulsory treatment for 15 months under the 2003 act and was given a solicitor, from a very limited choice, to represent her at mental health tribunals. To our horror, her solicitor, in a Kafkaesque situation, worked for the other side at those mental health tribunals by making several false statements. The solicitor was paid legal aid by the taxpayer but was worse than useless. She failed to point out serious procedural omissions when my wife's liberty and right to refuse treatment were at stake. That is hardly the robust safeguard that was intended by the 2003 act.

After I had complained to the health board, the ombudsman and several other parties about other matters, I complained to the Law Society of Scotland about the issue some 15 months after my wife's treatment had ended.

**The Convener:** I am sorry to interrupt your presentation, Mr Muir, but it would be really useful if you could focus on the bigger issue that the petition deals with and how it affects people throughout Scotland. I appreciate that your wife's situation is very pertinent to you, but focusing on one individual rather than the wider issue causes the committee some difficulty. Would it be possible for you to edit your comments?

**Andrew Muir:** Okay. I had been going to talk about how we went to court and how that did not work out. Would that be of any interest?

**The Convener:** We would run into the same problem. We want to look at the wider issue. There are constraints on what the committee can and cannot hear about court cases, even if they have been dealt with.

**Andrew Muir:** I was just going to say that we went to court and that, because of the Scottish legal system, that did not work out. That makes it even more important that there is no time bar on complaints. Perhaps members would like a transcript of my speech so that they can read it themselves. It is about why the court case did not work out.

What would you like to do?

**The Convener:** The advice that I am being given is that we need to hear about how the wider issue, which relates to complaints against solicitors, affects people in Scotland. The issue with your wife must be very painful, but there are some procedural constraints on us, which is why I pulled you up. I am sorry to have interrupted your remarks.

Are there any other points that you would like to make in summary?

**Andrew Muir:** I would just like to say that you cannot complain about a solicitor in a Scottish court, although you probably could in an English court. There are subtle differences, which mean that complaining about a solicitor is a problem in the Scottish justice system. Although the Scottish system is called distinctive by some commentators, I would call it unfair and unaffordable. The removal of the time bar would help to redress the balance a little.

I will leave it there and will miss out the second part of my remarks.

**The Convener:** Okay. I apologise again for interrupting you. I am sure that you appreciate the

constraints that we operate under. Thank you very much for your understanding.

I invite questions from committee members.

**Chic Brodie:** Good morning, Mr Muir.

The advice that we have been given says that the Scottish Legal Complaints Commission will not accept a complaint that is made more than one year after the event

“unless the Commission considers that the circumstances are exceptional”.

Did the commission give you any indication of what might be “exceptional” circumstances?

**Andrew Muir:** No, it just said that it was not going to deal with the complaint. It gave no indication at all of that.

**Chic Brodie:** That was it—it was not going to deal with it.

**Andrew Muir:** Yes, it was just not going to deal with it. Once I got the tribunal transcript, I tried again. After the court case, I tried again. The commission just continued to cite the one-year time ban and said that it would not deal with the complaint.

11:15

**Chic Brodie:** Perhaps I should understand this better but did you receive any guidance as to why there is the limitation? Why will a complaint not be accepted after one year?

**Andrew Muir:** The thinking seems to be that before a year is up you will have all the evidence, you will know exactly what you are doing, there will be no constraints on you and everything will be there. However, it does not work like that in practice.

**Chic Brodie:** Of course it does not work like that in practice on either side.

**Andrew Muir:** From my point of view—

**Chic Brodie:** I have some experience of this, having been at the Law Society of Scotland. The commission might say that it cannot accept a complaint after a year but do you know of circumstances in which a lawyer has not been able to respond in time but has still been able to provide evidence after a year?

**Andrew Muir:** I do not know anything about that.

**Chic Brodie:** There is no fairness, is there?

**Andrew Muir:** Well, as I have said, things like the Jimmy Savile case can go on for 40 years. Because of this big barrier in getting information and getting people to do things, one year is nothing.

**Chic Brodie:** And you get absolutely no explanation.

**Andrew Muir:** There is no explanation.

**Anne McTaggart:** The Justice Committee has contacted the cabinet secretary but it is still awaiting his response. Have you received any response?

**Andrew Muir:** No. I saw that on the website, but I am in the dark about it.

**Jim Eadie:** Do you think that there should be a time bar and, if so, what would you consider to be reasonable? Do you think that there should be no time bar at all?

**Andrew Muir:** I do not think that there should be any limit. People have talked about three years or five years; I am seven years down the line now and, as I have said, the cases involving Jimmy Savile, the Catholic church and so on have been going on for 40 years. I could go on. As I was trying to explain in my introductory remarks, the time bar is such a barrier.

**Jim Eadie:** So you think that there should be no time bar.

**Andrew Muir:** None whatever.

**Chic Brodie:** Did you deal with one person or a series of people at the Scottish Legal Complaints Commission?

**Andrew Muir:** I had never heard of these organisations when I complained—I was expected to know all about them, the one-year rule, the two-year rule and so on. First of all, I went to the Law Society in 2009; it looked at my complaint and passed me on to the SLCC, where another person looked at it. Both said the same thing: “No, we’re not looking at this.”

**Jim Eadie:** I know that under the committee’s procedures we are not able to go into your wife’s circumstances in any detail but given that the petition impinges on wider mental health issues I wonder whether you have approached any of the mental health charities or organisations for a view.

**Andrew Muir:** When I approached the Mental Welfare Commission, it said, “What? A lawyer making up that sort of thing? Wouldn’t happen in practice.” It was not interested—it simply could not believe that it could happen.

**Jim Eadie:** And have you spoken to any of the charities?

**Andrew Muir:** Not really. I have been down the other complaints routes and have spoken to the ombudsman, my local council, the health board, the police—at least 10 others. However, I have not spoken to a charity as such.

**The Convener:** The next step is for the committee to discuss how it will deal with the petition. We always ask witnesses to stay for that discussion to ensure that the process is open and transparent.

I certainly think that there is an argument for asking the Scottish Government, the Scottish Legal Complaints Commission and the Law Society of Scotland for their views on the petition, but I seek members' own views on whether they think that that would be appropriate.

**Chic Brodie:** I think so, convener. This might not be the right place to make this comment, but I have to say that I am frustrated that some in the legal profession feel that they are a sector apart from society; indeed, we have already had a conversation about another individual not appearing before the committee. They are not a sector apart and I think that we should make it clear in the strongest possible terms that we are seeking information from the Government, the SLCC and the Law Society on their processes and their approach to such matters.

I also want to know why, if the Government was supposed to provide an update by Wednesday 22 May, no response was received as of 21 May.

**Anne McTaggart:** Following Jim Eadie's comments, I am keen to ask mental health charities and organisations for their views on the matter. After all, it will affect not just one person.

**Angus MacDonald:** I also note that the SLCC has suggested to the Scottish Government that the Legal Profession and Legal Aid (Scotland) Act 2007 be reviewed. It would be good to hear the Scottish Government's views on that.

**The Convener:** Indeed. Given that the SLCC is a comparatively new body, it would also be interesting to hear its own views.

Do members agree with the approach that has been outlined?

**Jackson Carlaw:** I am happy to go along with that broader approach, convener. However, given that the Justice Committee is carrying out post-legislative scrutiny in this area and given that this is a highly personalised example of issues that arise, I would—unusually, it has to be said—also recommend that on this occasion we refer the petition to the Justice Committee.

**The Convener:** I take that point. We should certainly not rule that out when we get the various responses and discuss the petition again.

**Chic Brodie:** In a letter that we have received, the Law Society's director of law reform says:

"If the petitioner has not done so already he may want to seek legal advice about the exercise of this discretion by the Commission."

My experience is that these matters go round a little pool of legal advisers, solicitors and what have you without any determination being reached. It is almost like a closed sect, and I think that it has to stop. If we want a fair and open society, the legal profession has to play the game like everyone else.

**The Convener:** Thank you for that.

In summary, Mr Muir, the committee is keen to continue your petition and to seek advice from the organisations that members have mentioned. The clerks will keep you up to date with developments. Thank you again for taking the time to come along and give evidence; I am sorry that we had to cut you off on a purely procedural point.

I suspend the meeting for a minute to allow Mr Muir to leave.

11:22

*Meeting suspended.*

11:22

*On resuming—*

## Current Petitions

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

**The Convener:** The next item on the agenda is consideration of current petitions. PE1169 by Margaret Forbes on behalf of Scottish Women Against Pornography relates to display of sexually graphic magazines and newspapers. Members have the clerk's note, which is PPC/S4/13/11/5, but before I invite contributions I remind the committee—especially Jim Eadie, whose first Public Petitions Committee meeting this is—that we went into a lot of detail on this very relevant and pertinent petition some time ago and referred it to the Equal Opportunities Committee. The petition has now been referred back to us, which I have to say is probably quite an unusual step. Members should also be aware that the National Federation of Retail Newsagents has published guidance on the issue for newsagents throughout Scotland.

I have to say that I do not think that the committee can get any more mileage out of this petition. I therefore recommend that we close it—not because it does not have any value but because we have already dealt with it in quite a lot of detail and I see no window of opportunity to do more with it. I seek members' thoughts on that.

**Chic Brodie:** I have been involved with companies across Europe for a long time. I have tried to understand the basis of the petition, but I have to say that we have almost an obsession with this type of thing, when the material in question is accessible on the internet. Moreover, why is it just about women? There are men in the magazines. Given that we have looked at the petition 13 times now, I agree with the convener that we should close it.

**The Convener:** Do members agree or does anyone have a contrary view?

**Anne McTaggart:** For all the reasons that you have highlighted, convener, and given that the Equal Opportunities Committee has decided that no further action is necessary, I think that the petition should be closed.

**The Convener:** Obviously, we would like to thank Margaret Forbes for her efforts in lodging the petition.

**Anne McTaggart:** Indeed.

### Ferry Fares (PE1421)

**The Convener:** PE1421 by Gail Robertson, on behalf of the Outer Hebrides Transport Group, is on ferry fares. Members have a note by the clerk, which is paper PPC/S4/13/11/6, and the submissions.

Rhoda Grant would have liked to be here today, but she is travelling to Edinburgh as we speak and so is unable to attend.

Obviously, the committee has considered a lot of issues around the Western Isles. As you will recall, we had a Parliament day in Stornoway and a number of transport issues were raised then. Angus MacDonald will probably agree with me that it might be useful to get the leader of Western Isles Council, Angus Campbell, to come and speak to us directly on the petition. Perhaps we could tie in other pertinent issues, such as public service obligations for the services to Benbecula and Barra, and wi-fi provision. Those three issues all affect the Western Isles.

**Angus MacDonald:** I agree that the moment is opportune, given that three live current petitions refer directly to the Western Isles. On petition PE1421, I was as recently as yesterday in Stornoway, where there is a general consensus that local hauliers have not passed on the benefits of the road equivalent tariff to the general public. However, as you know, there was a debate on the matter last week in Parliament and I am pleased to say that a working group has been established that will include broad representation by key stakeholders.

The report on the removal of RET from commercial vehicles points out that, given the 16 per cent increase in haulage costs between 2008 and 2012—which was mainly due to fuel-price increases—it is hard to assess the impact of the removal of RET against the general economic slowdown. It would be good to get both the leader of the council, and, if he is available, the convener, to give evidence.

**The Convener:** Do members agree to that course of action?

**Members** *indicated agreement.*

**The Convener:** We will continue petition PE1421 and ask the leader and the convener of Western Isles Council to give evidence to the committee on that trilogy—if that is the right term—of transport issues.

### Fair Isle Marine Protected Area (PE1431)

**The Convener:** The third current petition is PE1431 by Nick Riddiford, on behalf of the Fair Isle community, on a marine protected area for

Fair Isle. Members have a note by the clerk, which is PPC/S4/13/11/7, and the submissions.

PE1431 is a very interesting petition; members will recall that we heard evidence on it some time ago. There still are very understandable issues for the Fair Isle fishing community. However, it appears that there are delays in getting resolution from Marine Scotland. I suggest that Marine Scotland appear before the committee or that the committee write to ask it when it will publish the outcome of the final assessment of the demonstration and research proposals. We have been given quite a few promises about that and it is crucial to the next steps. I am relaxed about whether Marine Scotland appears in person or makes a written submission. What are members' views?

**Chic Brodie:** I think that we should meet Marine Scotland in committee.

**Jackson Carlaw:** We should say to Marine Scotland that we note that it has given various times for when the information will be available; that we expect it to hold to publication in the summer; and that we look forward to quizzing it on the report here in committee at the beginning of the new parliamentary year.

**The Convener:** Are members happy with that approach?

*Members indicated agreement.*

### Thyroid and Adrenal Testing and Treatment (PE1463)

**The Convener:** The fourth current petition is PE1463 by Sandra Whyte, Marian Dyer and Lorraine Cleaver on effective thyroid and adrenal testing, diagnosis and treatment. The petitioners are in the gallery—if I have got the right glasses on. If I have not, I am sorry.

Elaine Smith, who has a lot of experience in this area, would like to make brief opening remarks.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Thank you. The petitioners are, indeed, in the gallery.

Since I was last here, the committee received evidence from endocrinologists and others that highlights an urgent need for review of how thyroid patients are diagnosed and treated by healthcare professionals in the United Kingdom. Given that the committee will have read the evidence and that there is a lot of it, I will pick out only one or two comments.

11:30

Before I do that, I want to highlight to the committee a life-threatening situation that patients

are in at present. It is fortuitous that the committee is in the process of dealing with the issue, because the sole pharmaceutical firm in the UK that manufactures T3—or triiodothyronine—has stopped production, which people found out about only at the end of last week. That has raised a number of questions, including why was Mercury Pharma Group the only supplier?

There are questions around the price of T3 as well. More than £54 was being charged for a month's supply when, in other parts of the world, it costs £1 for a month's supply.

However, the most pressing issue at the moment is the fact that people—mainly women—could die if they cannot get T3; it is akin to diabetics not getting insulin. We would all be grateful for any action that the committee could take to help. I have raised the matter with the Cabinet Secretary for Health and Wellbeing, and some MSPs have contacted me because constituents have contacted them about it.

That leads me to a submission that the committee received from Dr Henry Lindner, who believes that the failures that he outlines in diagnosis and treatment would have been identified and corrected if not for the

“pervasive influence of the pharmaceutical industry”.

That might have a bearing on the fact that GPs who prescribe natural thyroid extract are being reported even though their patients respond well. The committee has also had information on that. Doctors feel constrained because some who have prescribed natural thyroid extract are being dragged in front of the Royal College of Physicians, which is appalling when their patients are getting better.

A submission that the committee received from Dr Maclean talks about the department of health in America and fines to pharmaceutical companies. Dr Maclean says that because the natural thyroid extract is natural, it cannot be patented, which means that there is no funding for it.

It is also interesting that the Medicines and Healthcare products Regulatory Agency has just issued a statement on the T3 situation saying that doctors now need to source unlicensed T3 from elsewhere. However, if we look at the evidence that the committee has received, doctors are being hounded by the establishment when they prescribe desiccated thyroid hormone, which is giving patients back their lives. It is a bit ironic that because one manufacturer has stopped making T3, we are being told that prescribers need to source unlicensed T3.

In another submission, Dr Sjöberg points out that

“There are no clinical trials”

comparing patients on synthetic thyroxine with patients being treated

“with natural desiccated thyroid extract”

even though that was the treatment that was used right up until drug companies began producing the synthetic thyroxine.

The evidence that the committee has received so far from the medical people that it has contacted points to an urgent need for a review of how thyroid patients are dealt with. If I am right, the committee has not yet had a reply from the Royal College of Physicians, but its guidance only covers people who can convert normally. Levothyroxine might help such people, but it does not help others—as Dr Toft said on the Scottish Television news last night.

The reason why some people perhaps do not complain is also in the committee’s paperwork. Blood tests may show that thyroid levels are okay, but people suffer from things such as fibromyalgia and will be diagnosed with myalgic encephalomyelitis, so they will not complain about their thyroid because they will not realise that that is possibly what is causing their other issues, as happened to me.

To summarise some of the committee evidence, 103,000 people have been diagnosed with hypothyroidism in Scotland. It has been estimated that those who have been diagnosed with it make up only about 20 per cent of the people who have it. For every man that it affects, it affects 10 women.

It does not seem to be a national health service issue as such, but it may be training from the Royal College of Physicians that filters down that results in doctors’ hands being tied on the issue. It is therefore unfortunate that there has been no response as yet from the Royal College of Physicians.

Dr Toft has made it clear that doctors need to take a holistic approach to the issue to look for signs and symptoms of conversion failure.

Things are slow in the States, but progress is being made and the reference range has been narrowed—which is also covered in the papers—and it is being re-examined.

Thyroid Change—an organisation that the petitioners are in touch with—is in contact with people in 147 different countries. That gives the committee some idea about the disorder—it is something of an epidemic. It could also provide the key to other problems such as obesity and heart conditions.

The petitioners say in their submission that they “may be only three anecdotes who almost died”—

I can add myself and make it four—

“but they speak for a worldwide thyroid community and have the support of doctors who are world authorities on the speciality.”

The committee has had a letter from the Scottish Government. Its intervention is extremely welcome, but the Government will only review the paperwork. It proposes to consider diagnosis and treatment in the rest of the UK, but the committee may find it more helpful to look abroad to places such as the US, Cuba and Germany.

The Government also proposes to take about six months to get back to the committee; meanwhile, women are suffering and some people may actually be dying. Committee members recognised that point the last time the petition came before them, and some said that a short timescale for action was necessary.

I ask that the committee do some work that involves speaking to people rather than reviewing paperwork while the Government gathers in the paperwork from the establishment. The committee could take evidence and appoint an adviser, but there is only a short time between now and the summer recess, so perhaps members might consider having a round-table discussion. They could speak to Lyn Mynott, for instance, who was interviewed last night, or Margaret McGregor, who runs the helpline in Scotland that deals with sufferers. The committee could also speak to some of the general practitioners who have been prescribing desiccated thyroid extract about how that impacts on their patients.

Such action might help to get a bit more information while the committee waits on the Government to come back to it in six months. The Equal Opportunities Committee did something similar when I was a member of it; it took evidence while the Government was considering women in prison.

Whatever the committee decides to do, I thank it very much for raising the profile of the issue and for getting a commitment to action that might yet mean that Scotland can become a world leader and that lives could be saved.

**The Convener:** I thank Elaine Smith for her eloquent summary of the issues and for giving us tips for the future.

I point out to committee members, in case they are a little bit confused, that some of the references that Elaine Smith rightly made refer to previous papers, which we do not have today.

It is suggested that we have a round table before the six months after which the Government will get back to us are up. Unfortunately, we are unable to do that before the summer recess, because our slots are all filled up with other

petitions until then. However, it may be possible—I would have to speak to the clerk—for us to do something as early as possible after the summer.

I throw the discussion open to members. There are a variety of options that we can consider. We can obviously invite Alex Neil, the Cabinet Secretary for Health and Wellbeing, to come along, we can defer the petition until we have had the Scottish Government's response or we can do something more proactive, such as have a round table with key individuals who have a lot of knowledge on the subject, including patients.

**John Wilson:** I take on board many of the points that Elaine Smith made and the submission from the petitioners. A round table would be useful, but given the time constraints that you have indicated, convener, I would be keen to find out whether it would be possible to invite the Cabinet Secretary for Health and Wellbeing along to a meeting prior to the summer recess.

The petitioners and Elaine Smith have highlighted a serious situation in which the standard drug that is given to many patients has, in effect, been withdrawn. It would be useful if we could get some assurances from the cabinet secretary about the impact that the manufacturer's withdrawal of the drug has on many patients throughout Scotland and about the implications for those patients.

As the petitioners and Elaine Smith have said, people are in a life-threatening situation. A drug company withdrew in April this year a drug that is crucial to the wellbeing and health of the patients who receive it, and answers need to be given. We need to get those answers now—not after the summer recess—because, as the petitioners clearly identified last night on the news bulletins, we are in a serious situation. The stage that we are at clearly does not address the seriousness of the issues that many patients face. We need to get answers as soon as possible.

I would like us to find half an hour in a committee slot before the summer recess to invite the Cabinet Secretary for Health and Wellbeing with officials to answer the questions that need to be asked of him about why we find ourselves in this situation.

**The Convener:** The committee's meetings until recess are busy. The clerk tells me that it is not impossible to reschedule, but we will need to do a little bit of work on that. Bear with us and we will see what we can do to achieve John Wilson's objectives.

**Chic Brodie:** I would echo John Wilson. I know that we are all very busy, but we could reschedule, add time or find other time.

I did what Elaine Smith suggested. I have secretarial support from a company in Ayr and the lady who runs that company suffers from the condition. I am surprised and distraught that the supplier has withdrawn the T3 medicine.

I know that the cabinet secretary is wrestling with orphan drugs and things like that, but we have to get a standard process in order to make sure that we have good clinical advice and that the appropriate drugs are available as defined. We need to make sure that that process works. In this case, I suggest that we find the time to discuss the matter with the cabinet secretary at a meeting as early as possible.

**Jim Eadie:** I fully support and endorse what has been said by Elaine Smith, John Wilson and Chic Brodie. I think that a round-table discussion should happen, to consider the wider issues. However, there is a more urgent issue of supply of T3 and the fact that the sole manufacturer has ceased production since April. I would very much support having the cabinet secretary in front of the committee before the summer recess; we should juggle our timetable to ensure that that happens.

The issue of production and supply of a life-sustaining treatment that has not been available is very narrow. The wider issues of access to medicines and how we ensure that the system makes available appropriate treatments is for the round-table discussion, as are the wider issues of proper diagnosis. Elaine Smith rightly referred to the fact that there may be an as yet undiagnosed epidemic in the wider population.

When I read the papers for today's meeting I was interested in the Royal College of Physicians' statement that it does not support the use of T3 or thyroid extracts

“without further validated research published in peer reviewed journals.”

It would be useful to have it at the round table, to explore that issue with it and the regulatory body, the MHRA, which has clearly considered the safety, quality and efficacy of the licensed treatment. We should get their views on that and on unlicensed treatments, which clinicians are now being advised to make available.

**Angus MacDonald:** There is definitely a very strong argument to invite the cabinet secretary to committee prior to recess; I am happy to concur with everyone on that.

I have found round tables to be extremely informative on other committees that I have served on. I certainly agree that the RCP should also be invited to attend the round table.

**Anne McTaggart:** I agree with all that has been said and thank Elaine Smith for bringing the issue to our attention. I think that the matter is even



more urgent than she has suggested and we need to speak to the cabinet secretary before we finish up for recess.

**Chic Brodie:** I presume that the T3 drug went through the usual process with the Scottish Medicines Consortium and things like that.

**Elaine Smith:** Production of T3 stopped in April. I had found out before that that Eltroxin, which is supposed to be the best form of thyroxin, had become difficult to get, which was the start of the problems with the Mercury Pharma Group in April. However, we found out recently that there was a problem with T3 as well, and the people who were on it found out that Mercury Pharma was the only manufacturer of the drug for the whole UK.

11:45

Basically, women—it is mainly women, as far as I know—have been scrambling around and giving each other pills. People do not stockpile them and they have a use-by date, but people have been giving each other pills to help each other out while the matter is being explored.

The problem was with the licensed product. I found it surprising that there was only one UK manufacturer of it. I was also surprised at the price of it. Some people had been recommended to get some from abroad, and I am told that the potency of it may have been different—some people on T3 have been feeling unwell recently and have not understood why.

On its website, the MHRA now says that prescribers should be looking to get unlicensed products through their chemists to meet the need. It is not that the company that manufactures the drug has withdrawn only that product; there may also be problems with other medicines from that company. It seems just to have stopped manufacturing certain medicines, and I am not sure why.

**Chic Brodie:** The fact that this has happened to a licensed product is deeply concerning. If there is a hole in the process whereby a pharmaceutical manufacturer that gets into trouble can withdraw a product because it is too expensive to make or too difficult to distribute, we have potentially a big problem. That is why we should explore the problem with the cabinet secretary and a round table. We seem to be running into such problems regularly, and I would like to understand exactly what is done by the clinicians and the SMC not just in licensing products, but to ensure that they do not fall out of the supply chain.

**Jim Eadie:** Has the committee written to the manufacturer and the MHRA?

**The Convener:** No.

**Jim Eadie:** Can we do that following today's meeting?

**The Convener:** That is something that we should action. Ms Smith, can I just confirm something that you said in your opening remarks? Does the company that produced T3 have exclusive rights over the drug? You said that there was an issue around exclusivity.

**Elaine Smith:** It seems to have been the only company that was producing the drug. I can give you only anecdotal evidence from my chemist, who knows people who are trying to get T3. He said that Pfizer produce a patented form of T3 called Cytomel that he thought he might be able to source from Pfizer. However, when he approached Pfizer he discovered that the company sells the drug only outwith the UK and is not licensed to sell it within the UK. I do not know the ins and outs of it, but I know that Mercury Pharma is the only company that is licensed to supply T3 in the UK—that is stated on the MHRA's website.

**The Convener:** We do not want to get too technical but, as members have suggested, we can check with the National Institute for Health and Care Excellence and the Scottish Medicines Consortium, which carry out the approval process for drugs in the UK—

**Jim Eadie:** Convener, we need to be clear that it is very much a reserved matter and that the licensing authority in the UK is the MHRA, although there are different assessment processes in different parts of the UK when it comes to establishing the cost effectiveness and clinical effectiveness of new treatments. We need to distinguish between the two processes.

**The Convener:** As we have found out at other evidence sessions, even individual health boards have individual approval processes. It is quite a complicated area.

**Jim Eadie:** It is complex.

**The Convener:** The key point is that the matter is urgent and we want to speak to the minister as soon as possible. That may require some rescheduling of our meetings—we will get back to you about that. Members also want to have a round-table discussion after the summer recess involving the groups that have been mentioned. Is that a fair summary?

**Chic Brodie:** It is good that Jim Eadie is here, as we can benefit from his experience. I would find it helpful to have a look at what we think the process is for approving licensed products and at the role that each of the bodies involved plays in terms of reserved matters or local responsibility.

**The Convener:** You have just predicted the first questions to the cabinet secretary, Alex Neil, when he comes before us.

**Chic Brodie:** It would be helpful if we had the information before then.

**The Convener:** We will do our best to get that information to you before that.

**John Wilson:** I can think of a number of questions for the cabinet secretary. It is not just about the licensing of particular drugs. The issue that has been identified is that patients are being denied access to a drug that is assisting them and which is life-saving. That is what we need to ask the cabinet secretary about. There is the cost factor. Elaine Smith and the petitioners highlighted that we are being charged 5,000 per cent of the charge in the rest of Europe—and throughout the world—for a licensed drug. That raises serious questions about the licensing process.

**Jim Eadie:** I do not think that we are well enough informed about these issues. We are speculating here.

**John Wilson:** Just to clarify for Mr Eadie's benefit, given his experience prior to entering Parliament, the evidence that we have been presented with by the petitioners and that has been highlighted by Elaine Smith today is that the NHS is being charged £54 for a drug that is available on the mainland continent at £1 per prescription. We are being charged 5,000 per cent of what is being charged elsewhere. I am basing that statement on the evidence that has been provided by the petitioners and which has been presented to the committee today. It is up to pharmaceutical companies to tell us whether that is correct. They have the right to defend themselves. However, there are issues here for the cabinet secretary to address. I am sure that he will read with interest the *Official Report* of today's meeting and will be armed with answers to the committee's questions when he comes before us.

**Jackson Carlaw:** Convener, you have recommended a course of action to which I think all members have agreed. In the light of that, we should move on.

**The Convener:** Yes. I thank Mr Carlaw for backing up the position.

**Elaine Smith:** It may be helpful to the committee to know that I wrote to the cabinet secretary on Thursday when I found out the details of the issue. Furthermore, other MSPs have asked me about it on behalf of constituents. I hope also to lodge some written questions, which I will be happy to share with the committee.

**The Convener:** Thank you. The course of action is the one that I mentioned earlier, which is that we will have an urgent meeting with Alex Neil

and a round-table meeting after the summer. It has been an interesting petition and there have been interesting—albeit worrying—developments today. I thank Elaine Smith for giving evidence, and I thank the three petitioners in the room for coming along. You can see that the committee is interested in your petition. We will keep you up to date with developments. Thank you all for your hard work.

### Interisland Air Services (PE1472)

**The Convener:** We move on to PE1472, by Councillor Gordon Murray and Councillor Rae MacKenzie, on behalf of Protecting Inter-island Transport Links, on interisland air services. Members have a note by the clerk and the submissions.

We have already come to a conclusion on the petition, which is that we want the convener and leader of Western Isles Council to come before us. There is only one additional point, on which I ask the committee's permission to proceed. Before we meet the convener of Western Isles Council, I think that we should try to get some information in writing from Orkney and Shetland councils about their experience, because they have public service obligations in their areas. Are members agreed?

**John Wilson:** I seek clarification. Are we joining PE1472 and PE1421 in any further consideration of the two petitions?

**The Convener:** Yes—that is correct. There is an argument for joining them with the next one as well, but I will come to that in a second. Do members agree to that course of action?

**Members indicated agreement.**

### CalMac Ferries (Wi-fi) (PE1473)

**The Convener:** The sixth and final petition is PE1473 by Frances Anne Gillies, on behalf of Barra Youth Council, on wi-fi on Caledonian MacBrayne ferries. Members have a note by the clerk and the submissions. Members will be aware that the petition was picked up by me in advance of our Stornoway away day. The Barra Youth Parliament is an excellent group. A lot of work has been done on this. In fairness to CalMac, it has given us an indication of what is happening. NorthLink Ferries is further ahead and has given us a detailed paper on what it can do.

The young people said that being on a ferry for six hours is a real drag if there is no wi-fi. That applies to the business community, too. It is very important.

It is important that we have CalMac and NorthLink here so that we can run through their timetable in detail. We particularly need to get CalMac's timetable.

The Scottish Government has said that it is a good idea that it be in the future tender condition, but that that is too far off at this point. We need to clarify what is going to happen on that front.

Do members have any comments? Jackson Carlaw looks pensive.

**Jackson Carlaw:** I am happy to indulge this petition and the previous petition. I stand by my view that—as the Scottish Government response notes—these are matters for councillors, who are elected and have complete discretion over whether to subsidise the routes. They have chosen not to, and a remedy exists for the public—

**The Convener:** We are dealing with the petition on wi-fi.

**Jackson Carlaw:** Yes, but I understand that we have coupled the two petitions.

**The Convener:** No, that was the air transport—

**Jackson Carlaw:** I see that CalMac has said that it will deliver this wi-fi thing. I am not quite sure what more we are going to achieve, so that is fine.

**The Convener:** Thank you for that positive comment, Mr Carlaw. I appreciate that.

**Chic Brodie:** On PE1383, we discussed timelines and delivery with the ministers. Where the Government is involved, it is fair for us to say that we do not just want a business case; we want to know when a project will be delivered, how it is going to be delivered and what monitoring will be in place to ensure that that happens. Too many of these projects are open ended—“We’re going to deliver it mañana.” My message is that to do it mañana is not acceptable. We want a time and a date and we want to know how it will be delivered and that it will be monitored in a way that ensures that it happens. I am fed up seeing Government-supported bodies either not responding or not delivering stuff in the timescale that they suggested.

**The Convener:** Thank you for that. If there are no further comments, we will move on.

## Annual Report

11:56

**The Convener:** The final item on the agenda is consideration of our draft annual report, which I am sure members have read. The report follows the standard format, as agreed by the Conveners Group. Do members have any comments to make on the draft annual report before it is published?

**Jackson Carlaw:** I am content with it.

**Chic Brodie:** I think that it might help for the committee to be updated on Lord Gill’s position.

*Meeting closed at 11:57.*



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