

PUBLIC PETITIONS COMMITTEE

Wednesday 26 October 2005

Session 2

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PUBLIC PETITIONS COMMITTEE

16th Meeting 2005, Session 2

CONVENER

*Michael McMahon (Hamilton North and Bellshill) (Lab)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Helen Eadie (Dunfermline East) (Lab)

*Mr Charlie Gordon (Glasgow Cathcart) (Lab)

*Rosie Kane (Glasgow) (SSP)

Campbell Martin (West of Scotland) (Ind)

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

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Ronnie Beaty

Phil Gallie (South of Scotland) (Con)

Paul Macdonald

Euan Robson (Roxburgh and Berwickshire) (LD)

Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 3

Scottish Parliament

Public Petitions Committee

Wednesday 26 October 2005

[THE CONVENER *opened the meeting at 10:04*]

New Petitions

The Convener (Michael McMahon): Good morning, everyone, and welcome to the 16th meeting of the committee in 2005. We have received apologies from Campbell Martin. Jackie Baillie is with us, but she has a clash of committees this morning and will have to leave at some point. We will wait for your signal, Jackie.

Charlie Gordon will attend but not till later. As item 1 was to be a declaration of interests from him, we will have to wait for an appropriate time.

John Scott has just told me that he will have to leave at some point during the meeting as well.

Swords (Ban on Sale or Possession) (PE893)

The Convener: The first petition is from Paul Macdonald on behalf of the save our swords campaign. It calls on the Scottish Parliament to oppose the introduction of any ban in Scotland on the sale or possession of swords that are used for legitimate historical, cultural, artistic, sporting, economic or religious purposes.

Paul Macdonald will make a brief statement in support of his petition. Welcome to the committee, Mr Macdonald. Please make your statement, and we will discuss it afterwards.

Paul Macdonald: Good morning, all, and thank you for letting me speak on behalf of the save our swords petition.

The petition represents the views of more than 2,000 Scots on the recent proposals to ban the sale of swords in Scotland. For those people, as for many more, the sword is of valuable and irreplaceable sporting, cultural and historical significance. Most of them are people whose businesses, trades, hobbies, practices and passions would be under direct threat from such a ban. They all recognise that street crime exists, and they wish only to see effective measures taken by Parliament and by the law to counter it as directly as possible.

The petition was established because it was widely believed that the Executive's proposals were ill considered, entirely lacking in substantive research and would have no significant effect on street crime. They would make life difficult only for

thousands of law-abiding citizens and legitimate practices and businesses in Scotland.

The petition is a widespread national response and it poses some significant questions for the Executive. First, is such legislation necessary? It is widely felt that the Executive's decision to pass legislation for swords alongside that for knives in respect of criminal activity in this country is entirely inappropriate, misleading and unjustified. I ask the committee and the Executive: where is the hard evidence?

There have been recent sensationalist media soundbites suggesting that swords should be of concern to the Executive and to the Scottish public, but no hard evidence or substantiated statistics have been produced to justify such claims. Legislation should be based upon hard facts and upon the effectiveness of the provisions that it contains, not upon irrational hypotheses and predestined ineffectiveness. Passing laws makes news, but passing unjustified laws makes unpopular those who create them. The proposals for legislation are unjustified.

We must ask whether the proposed legislation would have any effect on street crime in Scotland. The petitioners, as well as many others, believe that such measures would have no effect upon the criminal mind and would not restrict any criminal in obtaining tools to supplement their destructive will. Even a complete ban on all sword sales in this country could not regulate against ownership of swords if they were bought legitimately elsewhere by mail order or through the internet. Licensing retailers would burden retailers only; it would not affect the criminal.

Licensing purchasers of swords in Scotland would only encourage criminals to bypass such measures by buying elsewhere. Banning the sale of samurai swords—if the Executive could ever suitably define such—or any type of sword in Scotland would stop no one owning one when they can be purchased legitimately elsewhere. The Executive would merely be punishing dealers in Scottish antiques and collectables, tourist shops—from swords alone, tourist shops in Edinburgh contribute a seven-figure revenue to the Scottish economy each year—auctioneers, collectors, museums, martial artists, sports fencers, historical fencers, re-enactors, theatrical fight directors, stage and screen production companies, highland dancers and sword makers; it would not be punishing the criminals.

If the Executive requires a precedent that highlights the ineffectiveness of banning tools that can be used towards criminal ends, it has only to review the statistics for handgun crime in the United Kingdom. Such crime has risen by more than 50 per cent in many areas, and by almost 50 per cent across the UK as a whole. In some areas,

it has almost trebled. It now stands at its highest level ever, years after all pistols were banned in a futile attempt to stem a sociological problem.

At present, citizens have the right to access swords for legitimate purposes. Until it can be conclusively proved that there is a significant problem with the ownership of swords, as there is with knives, that right and freedom should remain inviolate.

Jackie Baillie (Dumbarton) (Lab): I was interested in your comments, because I have received correspondence from a constituent on the issue. However, let me test some of your assumptions. Are you saying that swords are not lethal weapons?

Paul Macdonald: A sword is a lethal weapon only if it is in lethal hands—those of a person who is intent on doing damage.

Jackie Baillie: So they can be used as lethal weapons.

Paul Macdonald: As may most instruments, blunt or sharp.

Jackie Baillie: I am just trying to establish some basic principles before we go on. Do you accept that the advice from the police to the Executive was that there is an increasing problem with swords being the weapon of choice of many young men in our communities?

Paul Macdonald: The evidence of an increasing problem is usually derived from an increase in reported incidents and arrests by the police. A rise in the figures could also be a result of more effective measures by the police.

Jackie Baillie: I am trying to establish that the measure is not being introduced as a result of media headlines, but because of information from the police—who are considered to be a reasonably reliable source—that there is a problem.

Paul Macdonald: I ask exactly how many incidents have been reported and how widespread and serious the problem appears to be.

Jackie Baillie: There is a difference between the media headlines and the information from the police, which is certainly that there is an issue. Given that we have established that there is a problem, although we are not quite sure about its scale, what do you propose as a solution to combat it, as it is clearly growing?

Paul Macdonald: The problem seems to be with tools getting into the wrong hands. As such, we should target the wrong hands, rather than the tools that they can pick up. The problem is a sociological one, as is the problem of handgun crime. The problems in society have not been targeted, but the tools have, which does nothing to stop the wrong hands picking up the tools.

Jackie Baillie: You seem to me an altogether reasonable individual so, on the basis that purchasers of guns are licensed, why do you think that a licensing scheme would not work? It would separate those who use swords legitimately, in the way that you describe, from people who would misuse them.

Paul Macdonald: A licensing scheme could be effective in maintaining some control, but the measure could easily be bypassed.

John Scott (Ayr) (Con): It is unclear to me what representations you have made to the police or members of the Scottish Parliament. Did you respond to the consultation on the issue that has recently closed?

Paul Macdonald: I certainly did.

John Scott: In your view, what are the weaknesses of the proposed licensing scheme to which Jackie Baillie referred? I would like you to develop your arguments on the benefits or otherwise of such a scheme.

Paul Macdonald: Retailers say that licensing will burden them with additional paperwork but will not prevent criminals from getting hold of tools if they require them. The problem is a criminal one, but the measures address the tools, which seems to be working backwards and ineffectively.

John Scott: The problem for you is that you are a legitimate user of swords. If Parliament sees fit to allow you to continue to be a legitimate user, we must develop a method for that. Therefore, would the licensing scheme be of benefit to you, even though, as you rightly point out, the criminal element will always manage to find swords from other sources?

10:15

Paul Macdonald: The law, as it stands, is already effective for legitimate sword use; there is currently nothing against legitimate sword use. No additional measures need to be taken to differentiate between criminals and law-abiding users.

John Scott: In one word, are you in favour of or against a licensing scheme?

Paul Macdonald: I am against a licensing scheme for the reason that I see it as being unnecessary.

Ms Sandra White (Glasgow) (SNP): I am a member of the William Wallace Society and obviously swords are on display at some of the meetings, marches, ceilidhs and so on that I attend. They are mostly there for ceremonial purposes.

I am interested in the licensing scheme. I am also interested in what happens when someone

purchases swords for an organisation such as the William Wallace Society. Do they get them from a shop and do they sign something? Does the shop know who will have the sword? Will you expand on how people get ceremonial swords?

Paul Macdonald: As a sword maker, I am in a good position to answer that.

Outlets exist throughout the country for various types of sword. Depending on what type of sword a person is after, there is usually an appropriate retailer or outlet. Some people are after collectable swords to hang on the wall. A quick walk up the High Street shows that many such items are available there. Specialist outlets are available for swords that need to stand up to contact use for re-enactments and for historical and sports fencing. The cost of those swords is usually much greater. To be honest, I have had some spurious callers who have asked for cheap swords, knuckledusters and all sorts. Of course, I say to them, "No. I am sorry. I do not know where to get those." Usually the higher price of a sword that is made for contact use will put off the man in the street who wants to use it for criminal acts.

Ms White: Do you take a list of the names and addresses of people to whom you supply swords?

Paul Macdonald: Certainly. All the swords in my market are made to order, so I have a note of addresses and contact details for every customer. That is a matter of course for any sword maker.

Ms White: I assume that your name would be on the sword, so if one of your swords or a sword made by someone like you was found to have been used for criminal activity, it would be easy to trace that back to the person to whom it was sold.

Paul Macdonald: Yes, I am sure that it would be. It would be easier with a sword that is made individually.

Ms White: That is a form of licensing system in itself.

Paul Macdonald: Yes. It is self-regulation.

Ms White: The Executive states that police advice suggests that

"the concealability, portability and availability of samurai swords in particular, make them the weapon of choice".

Some of the swords that I have seen are perhaps 5ft or 6ft long. I question the concealability of that type of sword. What do you think of that statement from the police?

Paul Macdonald: Knives are obviously more easily concealable, more easily disposable and much cheaper on the street. Knives are used over swords 99 times out of 100. I looked into the figures from Lothian and Borders police, which is one of the police forces in Scotland that

differentiates between sword crime and knife crime. It did not get back to me about what constitutes a sword in its eyes, but comparison of the number of physical assaults carried out using knives and the number carried out using swords shows that 99 per cent involve knives and 1 per cent involve swords. The use of swords is hardly a great problem on the streets. There are occasional incidents but only a handful each year throughout the UK. That does not seem to me to be sufficient reason to impose legislation.

Ms White: Would you say that a responsible, legitimate supplier would take cognisance of whom he is supplying the swords to and would have a list of those people? Rather than introduce legislation, would it be sufficient for it to be stipulated that a supplier must have a list of the names and addresses of people who bought swords?

Paul Macdonald: That would seem to be sufficient as far as I can see. There would be a traceable source for anything that was sold.

Rosie Kane (Glasgow) (SSP): I am sorry that I missed the start of the meeting, but my train was late. I should perhaps lodge a petition on the Glasgow to Edinburgh train in the mornings.

You mentioned the handful of crimes that occur annually. I do not know whether you addressed this issue in your opening statement, but how or where would individuals obtain the swords that are used in those crimes?

Paul Macdonald: It is difficult to say, given access to internet sources. Anyone can buy anything online these days. It has been suggested that some shops will sell to underage buyers. That should not be the case among retailers selling blades, but it is possible. Swords sold on the high street are largely ceremonial and decorative; they are not made for contact and they are likely to fall apart if they are used in that way.

Rosie Kane: I suspect that it is the ornamental sword that ends up being brandished in the street.

Paul Macdonald: More often than not, that is what is used. That is largely because such swords sell for £20 or £30 on the high street, which is within the man in the street's budget.

Rosie Kane: Would it still be easy for individuals who wanted to obtain swords for whatever reason to do so online and to have them brought in from overseas?

Paul Macdonald: Sure. It is not a problem to obtain any kind of edged weapon online; it is an open market, and perhaps it always will be.

Rosie Kane: I tend to agree with you, but I am a legitimate user of a bread knife, for instance, and if there was an increased use of bread knives in

crime, I do not think that Parliament would consider for a moment taking our bread knives away. I agree that we are talking about crime, criminals and people behaving in a violent manner using a sharp implement.

I just wanted to say that because I heard you address the point. Thank you for your answers.

Jackie Baillie: Are you aware that the Police, Public Order and Criminal Justice (Scotland) Bill that is before Parliament does not contain provisions for a licensing scheme?

Paul Macdonald: Does it not have that provision?

Jackie Baillie: No. It might be useful to say what the bill does, because we have all—including myself—been asking you about licensing schemes. I understand that the bill increases the maximum term of imprisonment from two years to four years, and raises the minimum age of persons to whom knives and

“certain articles with blade or point”,

including swords, can be sold to people from age 16 to age 18. The bill makes no provision for the sale of swords. On the basis of what is in the bill, will you be supporting it?

Paul Macdonald: I believe that you are talking about a previous bill.

Jackie Baillie: I am talking about the bill that is currently before Parliament and is due to be considered by the Justice 2 Committee.

Paul Macdonald: Ah yes. I thought that I was here to speak about a different bill on the sale of swords and non-domestic knives, which are a related issue. I have not raised that yet.

Jackie Baillie: In my view, the consultation to which you responded led to the introduction of the current bill. There is no provision in that bill to cover the sale of swords and there is no mention of a licensing scheme.

Paul Macdonald: Yes. I am talking about the consultation.

Jackie Baillie: Right. So do you support what is in the bill?

Paul Macdonald: It seems to be not too far-reaching and it might have some effect, so yes, I would support that bill, but I am addressing the consultation.

Jackie Baillie: That is helpful. Thank you.

The Convener: I have a question about the logic of the differentiation between legitimate use and illegitimate use. No one would dispute that the use of handguns in crime has increased, but that is criminal use and the police want to identify criminal activity. The proposals for licensing

handguns allow the police to determine whether someone is a legitimate user of a handgun, or a criminal or illegitimate user of a handgun. You seem to have an issue with that. Are you concerned about licensing per se or specifically about the licensing of swords?

Paul Macdonald: My main concern is about the effectiveness of licensing and whether it would have an effect on street crime. I do not believe that it would; it would affect only the law-abiding, legitimate users who would have to go through the application process.

The Convener: If someone wants to sell a car, there has to be paperwork and licensing. If someone wants to use a car, they have to get a licence. Legitimate sellers and users of cars hold licences. Illegitimate users, or criminals, sell and use cars outwith the licensing provisions. Therefore, they are using those cars illegally. The police can determine what is illegitimate and what is legitimate. Surely a licensing system for swords would allow the police to determine a legitimate user—someone in one of the categories that you have mentioned—and an illegitimate user of a sword, or a criminal.

Paul Macdonald: Such a system would determine that, and it would determine who was using swords legally, and for a legitimate purpose.

The Convener: Is that not the purpose of a licensing system?

Paul Macdonald: Sure, that would be the—

The Convener: What about licensing alcohol? There are legitimate sellers and users of alcohol and illegitimate sellers and users of alcohol. The sale of alcohol requires licensing.

Paul Macdonald: I agree that such a system would recognise those who are using swords legitimately, but I believe that such measures could be all too easily bypassed and that they would be entirely ineffective on the street.

Rosie Kane: I know what you are saying, convener, but I do not know whether you can compare driving to violent intent.

The Convener: I am not comparing the two.

Rosie Kane: I know you are not, but you are making—

The Convener: I am talking about the principle of licensing; I am not comparing one type of licence to another.

Rosie Kane: Violent crime is a specific and very separate issue. I know that you do not doubt that, convener. I think that the petitioner is making it clear that the issue is about the intent of the individual, and I take the point that if there were no swords anywhere in Scotland, if somebody wanted

to go out and chib or stab somebody, they would find themselves a sharp instrument with which to do so. The issue may be a smokescreen to discuss swords, martial arts, highland dancing and everything else without talking about the individuals affected.

Several years ago, I saw somebody brandish an ornamental sword, close to where I live. It was a man in his 40s—not a 16-year-old or 18-year-old. He was just going a bit berserk in the street. It had clearly come from over a fireplace.

The issue is about violent intent and individuals who are intent on attacking somebody with a sharp implement. I do not believe that somebody will think, “Oh, there’s a ban on swords. That means I cannae stab anybody any more.” I think that they will probably find another way of meting out their violence. That is the point.

Paul Macdonald: Yes, exactly.

The Convener: We require recommendations on the petition.

Jackie Baillie: I suggest that we write to the Scottish Executive and ask it about its intentions. There is a bill before the Parliament that does not contain licensing provisions and the consultation has just concluded. It would be helpful if the Executive could set out its thinking on the bill and on the debate that we have had this morning.

The Convener: Once we get that response, we will be able to determine where the petition stands in relation to the Executive’s intentions.

Rosie Kane: I suggest that we also contact the new violent crime unit at Pitt Street police office in Glasgow. The unit has done a great deal of research on such issues and its input might be interesting.

The Convener: I do not have an issue with that. If the unit can provide information that would enlighten us, I do not see any reason why we should not contact it and ask whether it would be willing to provide us with some input.

Thank you, Mr Macdonald, for bringing your issue before us. We will keep you informed on the progress that is made and the responses that we receive.

Paul Macdonald: Thank you very much for the opportunity.

School Buses (Safety Measures) (PE892)

The Convener: Our next petition is PE892, by Ronnie Beaty, which calls on the Scottish Parliament to urge the Scottish Executive to amend the Education (Scotland) Act 1980 to set down minimum safety standards for school bus provision, including the provision of certain safety

signs; to make regulations under the Road Traffic Regulation Act 1984 requiring the use of certain safety signs and lights on school buses and making failure to comply with such signs an offence; and to seek the necessary powers to require bus operators to remove such safety signs from school buses when they are not in school use.

Ronnie Beaty, who is accompanied by Janet Beaty, will make a brief statement in support of the petition. I welcome both of them to the meeting. After Ronnie Beaty has made his statement, we will discuss the petition.

10:30

Ronnie Beaty: Good morning. I thank the Parliament for giving our family an opportunity to speak. We do so on behalf of our family and other families.

I hope that members have read Erin’s story, which has been provided. Following a year in hospitals, her on-going care costs will probably be horrendous and they will continue into old age—she is now nine. If those costs are multiplied by the number of children who are injured, the full costs that are involved will be appreciated. Erin’s case is by no means rare.

Malcolm Bruce raised the same concerns in the House of Commons in 1998, but no action has yet been taken. People do not seem to have grasped the seriousness of the situation and children are still being killed and severely injured. Councils, parents and children are asking for change, so why are children being allowed to be placed in situations that endanger them?

On our journeys to and from Edinburgh over the months, we have seen buses on outings with no children aboard proudly displaying school signs. Some signs are riveted on, some are stuck on and some are inserted in destination boards. Such signs are a nonsense and defeat the whole purpose of encouraging safety.

Many health and safety signs have been upgraded over the years, but school transport signs appear to have stayed the same. There are more visible signs on building sites, lorries and refuse trucks than there are on school buses. There are double-deckers that are marked as school buses in our area and possibly in members’ areas. They are painted yellow, but they do not even have seat belts and they carry twice as many children as single-decker buses do. Last year, many school buses were used as public transport in our area—I am sure that that happens in other rural areas. Such buses contain a mixture of children and fare-paying members of the public.

A law is needed to prevent vehicles from passing school buses as passengers are being loaded on to, or unloaded from, those buses. We all know about the distinctive American school buses. The American experience is probably not appropriate for the United Kingdom, but we can probably learn much from what happens there. Signs with a visible impact factor that give clear and adequate warning are needed, rather than signs that are high up on different places on buses and signs that can hardly be seen when it is dark. There could be flashing amber lights on each side of buses or flashing panels with words scrolling along the signs, similar to those that are used by the motorway police. There are similar panels on the television screen in the Parliament's reception area—words scroll across the screen. Signs could be bought that are slim, inexpensive and easy to install, that are operated by the driver and that are designed so that they can be easily removed. Strobe light bars could be fitted internally to the front and back windows. I am sure that it is not beyond industry or the Parliament to find a solution.

We must explore urgently the possibilities for change. Costs would be involved, but they would not be excessive. Costs are normally associated with improvements, but how much is a child's life worth?

Our ultimate aim is to have similar laws passed in this country to those that apply in America, so that cars cannot pass school buses when those buses are offloading passengers. That would be the most sensible approach.

Another option is having dedicated school transport. Buses could be bright yellow and there could be plenty of warning lights. Such buses should not be used as public transport. Signs on any vehicles that say that children are on board should be made illegal if no children are being carried—that is a crucial safety factor. Such signs have been used for a long time for the wrong purpose and people have come to see such signs simply as signs.

Erin has told us that she does not want other children on school buses to be hurt. My family appeals to members on behalf of our family and other families. The committee may think that we are asking a lot, but if members ask anybody whose child has been killed or severely injured, they will probably say that we are not asking for enough. Our family has spoken about the matter for so long that we have begun to talk about Erin's law.

I tried to get figures from the national health service information and statistics division, but that does not come under the Freedom of Information (Scotland) Act 2002. The division supplies figures only at a cost of £250 for each set, which is

grossly unfair. If no solution is found to the problem, children will continue to be killed and severely injured. We need to deal with the issue. If something is not done, I will come back before the committee, by God's grace and if I am granted permission to do so. I will have sackloads of letters from every parent in Scotland who has had a child killed or injured, which will make sad but profound reading.

Thank you for listening and for giving my family the opportunity to speak for ourselves and for other families. We will leave the petition with you, but with the expectation that the law will be changed.

The Convener: Thank you for bringing a very important issue before us. I am sure that members will want to ask questions and to get more detail on the issue that you have raised with us, so that we can determine in the most positive light what to do with the petition.

Helen Eadie (Dunfermline East) (Lab): I offer my commiserations to Mr and Mrs Beaty. You are right to say that you speak on behalf of many families. I have personal friends whose daughter was badly injured and will have on-going problems for the rest of her life. What you say is absolutely correct.

I will not ask you a question, but I will give my strong support to your actions. I will do everything that I can to help you with the issue in the Parliament. When I was a spokesperson for roads and transportation on Fife Council, this was a matter of serious concern for parents. I never ceased to receive letters and presentations on the issue from parents at community council meetings all over Fife to which I was invited. I know that you speak for families all over Scotland. I wish you good luck and pledge support for you this morning.

Ronnie Beaty: Thank you.

Rosie Kane: I, too, pledge support for you. You are not asking for too much or even for a lot. Similar requests have led to the twenty's plenty regime being introduced in some communities on an advisory basis. In many areas, such as here in Edinburgh, it has been advanced to a mandatory limit, which has undoubtedly saved lives.

What you are asking for will not only save life and prevent injury. There is also intimidation by traffic when children get on and off buses, which leads to many difficulties for young people. I have looked into the issue a great deal over the years. The solution that you seek is really important. I do not know what it should be, but I can see the sense of having a light that flashes when children are getting on and off buses. Your petition has made me think a lot about signs becoming almost decorative—like an advert on a bus to which people no longer pay attention. When people do

not pay attention to adverts, the companies that place the adverts do something drastic to ensure that people start to pay attention. That may be the way in which we need to approach the issue. I offer my regards to Erin and your whole family. Thank you for bringing the petition to us today. I will support it.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning. As you heard from Rosie Kane, there is a great deal of sympathy and support for the petition that you have brought before the Parliament. The question that it falls to me to ask is, what can we in the Scottish Parliament do to change the legislation?

I suppose that it is all down to attitude. In your presentation, you suggested several simple modifications and improvements to the signage, and even the vehicle, that would help. I suppose that those measures would be resented by the operators. The system here is not the same as that in America, which you mentioned, where there is a dedicated fleet of buses for school transport. We have not reached that stage in Scotland. However, I know that many local authorities are considering the possibility of introducing a fleet of buses for school transport, because for some school transport in local areas there is a limited choice of operator.

Another problem is that the operators will resent the idea of distinguishing the buses by using paint or some colour code. At some point, they may want to resell the vehicles and fluorescent or gaudy colours will be detrimental to the value.

You made some suggestions about signage. I have seen buses with the wee square thing at the back with a picture of a couple of kids on it, but, as you say, we see similar signs on many buses that are not on a school run and the signs are disregarded. How can we overcome that? You suggested some sort of illuminated sign that would be operated by the driver. How could such a sign be incorporated at the front and rear of the bus?

Ronnie Beaty: I will respond to the point about colourful vehicles first. That is the bus companies' problem; they are transporting children and safety should be paramount, regardless of the colour of the buses. I do not know about this part of Scotland, but where we come from—and probably in John Farquhar Munro's area too—the school transport is old, old transport. We get the rejects from central Scotland. The yellow double-deckers are—believe me—very old. I do not know what is done with them later, but they are probably past the point of resale.

Orange flashing lights could be placed on panels anywhere. In this day and age, there are so many innovations that nothing is impossible as long as it is on a sensible scale. It would not be hard to have

soup-plate-size orange flashing lights or to have strobe lighting. I think that we have all seen the strobe strips on emergency vehicles, which are really effective.

None of these things is expensive and none of them needs to be fixed to the bus. If the bus is being used for another purpose, the signs can be taken down. There would be a cost element, but there is a cost element to everything. There is a cost element to our coming here, but we wanted to put forward a case that we felt could save children's lives. Everything is relative.

I do not mean to be cheeky or rude, but many bus operators probably operate at the cheaper end of the market. Often, that is because councils give them limited funding—we return to the old story of funding. Funding responsibilities lie with the councils, the Scottish Executive or Westminster. That is not really my concern; my concern is to put my case on how I think children's lives can be saved and how children can be less severely injured.

John Farquhar Munro: I am sure that there is a lot of support for you and a lot of sympathy for your suggestions. However, an educational programme is needed as well.

Ronnie Beaty: Correct.

John Farquhar Munro: There must be an educational programme for pupils, bus operators and bus drivers, but, more particularly, for motorists. Motorists often disregard the little signs on buses. Legislation would have to be introduced to make it quite a serious offence for a motorist to disregard a strobe light, a flashing light or even a stationary bus that had school pupils aboard. All those things have to be considered.

As I wondered at the outset, what can we do in the Scottish Parliament? We do not have the authority to advise the Department for Transport on what should happen.

10:45

Ronnie Beaty: I think that you can put a forceful case to Westminster for legislation. The issue has already been raised in Westminster, in 1997, but I am not sure whether it has come up since then. During the seven years since 1997, a horrendous number of children have been killed. I do not know how you take the matter to Westminster; I leave that to the experts. All I know is that it really has to be done. If I have to go to my elected Westminster representative and take the matter forward through him, I will do that. If I have to go to Westminster, I will do that, but it would be really nice to know that the Scottish Parliament backs us on the issue, and I am sure that your support would carry a lot of weight in taking the matter to Westminster.

Ms White: My sympathies to you and to your granddaughter, Erin. School transport has always been an issue, even when my kids were small. In the west of the central belt, we used to get the old buses, so I know that something has to be done. Three kids being shoved on to one seat with no seatbelts is something that has to be dealt with, and I know that the situation has never been rectified. However, I know that the Parliament's Education Committee is examining various issues to do with school transport. The big problem, which John Farquhar Munro highlighted, is the sad fact that, although we are responsible for child welfare in education, we are not responsible for the transport part of it. That is nonsense, but we must consider the practicalities and see exactly what we can do.

I shall list what I think are the priorities, and perhaps you can say what you think could easily be attained through the Parliament and what your priorities are. You have mentioned that Aberdeenshire Council no longer has monitors on buses. When my kids were small, that was mandatory; there had to be a parent on the bus who could take the kids off and on. That is a practical measure that we could reintroduce and which might help in some way. You also mentioned flashing lights, but we do not have dedicated transport for schools. That is a big problem, and the reality is that we probably will not get such transport.

However, your suggestion about flashing lights and, more important, about motorists not being allowed to overtake a school bus would benefit not just school kids but everyone who uses the transport system. I would like such a measure to be extended, because a lot of elderly pensioners need to use buses and motorists can cause problems for them, too. It is not simply a case of protecting school kids; the field is much bigger than that. You are to be congratulated on mentioning that motorists should not be allowed to pass a bus when it is stationary at a bus stop. That carries a lot of weight; it is not just about school kids, but about everyone who is travelling. I am sure that it would be quite easy to use strobe lights, or whatever they may be, on the buses, and the bus companies must be persuaded to do something.

Having said that, however, I would like to hear your views on what would be the most practical and easiest things for the Scottish Parliament to do, even within a couple of months, such as introducing monitors, and on what would be the hardest things to do. What priorities would you want the Public Petitions Committee to highlight if we were to send the petition to the Education Committee with our comments, so that it did not look impossible to achieve?

Ronnie Beaty: The most important thing that we can do now is probably to make it illegal for the signs to be displayed when there are no children on board the buses. That is of paramount importance, because when those signs are left in place safety arrangements are made to look ridiculous and the system just does not work. Warning lights are a necessity. There must be an additional visible element to the yellow and black sign showing two children crossing, which can be stuck at the top or bottom of a bus or in a window. There have to be alternatives. As I said, it cannot be beyond the wit of Parliament and industry to come up with a costing for such measures.

Like Sandra White, I would like the ultimate rule to be that, when a bus stops to offload or pick up children, cars simply cannot pass it. Erin was almost on the pavement on the other side of the road when she was hit. She was not just getting off the school bus; she was well across the road when she was hit. Somebody who specialises in health and safety would probably need to examine the matter, because it is complicated. I do not know whether the Parliament has a health and safety committee. Perhaps such a committee could be instructed to take a fresh look at the situation, considering the figures on children who are killed or injured. It might produce other suggestions. The question is open.

Rosie Kane: While you talked, different reasons occurred to me why buses are used to transport school children in rural and urban areas on outings or to go to and from school. When councils introduced the twenty's plenty scheme, it was advisory. Some areas—unfortunately not all—have made the scheme mandatory. The situation is fragmented and there is no expectation of a safe road in a built-up area.

I am concerned that, although you said that Malcolm Bruce raised the issue at Westminster in 1998, nothing has happened. Erin might never have been involved in that terrible accident if something had been done.

Ronnie Beaty: Erin and probably thousands of others might not have been affected, including dozens of kids who have been killed needlessly since 1997.

Rosie Kane: What did Malcolm Bruce do and what was the result at Westminster?

Ronnie Beaty: I do not know too much about that. I know that the proposal was introduced as a bill and left. As far as I can see, no one has acted on it. Malcolm Bruce mentioned virtually the same points as I did. I found his proposal on the *Hansard* website only by chance. He described the same ideas, such as flashing lights, American-style buses and other safety features.

Rosie Kane: I will try to find out what happened to Malcolm Bruce's proposal. If the Scottish Parliament can do nothing about the matter, that concerns me greatly. The Scottish Parliament can build motorways, so it is a shame that we cannot slow traffic to save lives. I do not know why that is the position. I will try to find out what gives us the power to do one thing but not the other when one would benefit what you ask for whereas the other would be detrimental and would speed up traffic. I will try to get back to you on whether any loopholes or Swiss cheese holes exist. I can imagine a strip on the back of a bus with words appearing. Stopping for a short time to allow children safely to cross the road, as when a lollipop man or woman is present, would be a helpful similar solution.

Ronnie Beaty: Erin's mum was one minute late in collecting her. Members know what it is like for housewives. Nine times out of 10, parents are present to collect their children from the bus, but if something happens and a parent is a second late, that can be the result.

The Convener: I will answer the question that Rosie Kane discussed. The petition is admissible because it raises issues that relate to the Scottish Parliament's powers. The Education (Scotland) Act 1980 set out the minimum safety standards for school bus provision and it would be legitimate for the Scottish Parliament to change those provisions. Some transport issues might be reserved, but the Scottish Executive also has powers in relation to transport, which could be tested. That is how the Scottish Parliament's powers relate to the petition.

Helen Eadie: I agree with the convener that the committee could take some steps. Our papers suggest that, in the first instance, the committee could write to ask the Scottish Executive's Minister for Education and Young People for his views.

My understanding is that Scottish ministers have the power to give further guidance to local authorities. I note from our papers that ministers have not given guidance on the provision of school transport since 2003. One step in the right direction would be for ministers to give the issue higher priority by renewing the guidance on the provision of school transport.

We could invite the Royal Society for the Prevention of Accidents to give a view on PE892. Recently, I was at a conference in Crieff—I think that Stewart Stevenson was also there, as were other colleagues. We were very impressed—

Stewart Stevenson (Banff and Buchan) (SNP): The conference was not organised by ROSPA.

Helen Eadie: That is right. The conference was organised not by ROSPA, but by the other

accident prevention body. We could write to all the accident prevention bodies in Scotland to seek their views on the issue. All the local authority officers who were at the conference view the prevention of accidents as a very high priority. We could give a bit of an impetus to the accident prevention bodies' campaigning arm—they want to campaign to protect children in Scotland, as do members of the Scottish Parliament.

I thought that I knew of only one child from my constituency who was injured, but I now remember another child from the same town in my constituency who was killed as a consequence of stepping off a bus and walking out from the back of the bus. That is just one other example of many—we read the newspapers every week, after all.

I note from the papers that it may be possible to make law by regulations on matters that are reserved to the United Kingdom Parliament. If we can get the blessing of Westminster to amend some of the regulations, we could make a difference. When we have received all the responses, we could send them with the petition to the Education Committee. That would give renewed impetus to the issue. For the sake of the children who are to come, it is imperative that we get something done on the issue.

Nowadays, when we are driving along the road, we see signage that uses technology in a way that we never dreamt of before. For example, if someone is about to drive through a village, new technology is being used to prompt them to slow down—a message flashes up, "Slow down, you are going too fast". Solar panels can be used to energise signage in remote and rural areas. That technology could be put in place at every bus stop at which children alight from school buses. The signage could be switched on by a special tag that is fitted to all school buses. There is a lot that we could attempt to do that would help to make a difference.

The Convener: Stewart Stevenson has joined the meeting because of his interest in PE892. He has indicated that he wants to speak to the petition and perhaps to ask the committee questions on it.

Stewart Stevenson: Thank you, convener. I will make only one or two very brief comments. Much of what I may have said has been said already and the committee has made a very positive response to the petition. I am therefore optimistic that members will find a way of bringing forward the issue.

I have one or two suggestions to make. The committee may not be aware that Aberdeenshire is the most rural county in Scotland; 2 per cent more people live in rural areas in Aberdeenshire than is the case even in the Highlands. That is the

result of the influence of Inverness—I see that John Farquhar Munro is interested in that point.

I draw to the committee's attention the recently closed consultation at Westminster on the Road Safety Bill. After my meeting with Mr Beaty in August, I made a late submission on the use of yellow signage to indicate that a bus is transporting school children.

It would appear to be possible for the Executive, and hence the Parliament, to change the guidance that is issued to local authorities. For example, the contracts that local authorities have with school transport providers could require certain standards to be set for the use of signage on the back of their buses. In other words, a provider would lose a contract if they did not take down the signs when its drivers were not transporting kids. That measure would be much easier to implement than one in which the police would be involved, because it concerns a contractual matter that would come under the civil law and could be acted on quite quickly.

11:00

Another possibility is the idea of having mobile 20mph limits. I am not certain whether that is within the powers of the Scottish Parliament and local authorities, but I believe that it would be possible to require, through regulations, school buses to have a flashing 20mph limit sign on the back that would come on when they stopped.

A range of issues is involved. I have no monopoly on ideas in relation to this matter and I am sure that the Education Committee and the Local Government and Transport Committee will have further ideas.

I reinforce the point that the continual use, in inappropriate circumstances, of school bus signage leads to the psychological phenomena of desensitisation—the fact that one sees something all the time means that one no longer sees it at all. In the short term, if the Scottish Parliament were to achieve only a situation in which the school bus signage only appeared when the bus was in use as a school bus, we would have gone some way towards addressing the concerns that Ronnie and Janet Beaty have brought to us.

I will listen with interest to your disposition of this petition and will follow its progress, should there be any, in subsequent committees.

The Convener: Thank you.

Before we go any further, we will go back to agenda item 1. We have been joined by Charlie Gordon, who is the new member of the committee.

Welcome to the committee, Charlie. Do you have any interests to declare?

Mr Charlie Gordon (Glasgow Cathcart) (Lab): I apologise for my late arrival. I declare that I am a director of Hampden Park Ltd and a fellow of the Institute of Contemporary Scotland.

The Convener: We can now, with the full membership of the committee, discuss the recommendations on the petition.

Helen Eadie made some sensible suggestions, which I agree with. We can take the issue to the Executive and ROSPA on the basis that the responses that we get back will go to the Education Committee. We cannot contact that committee at the moment but we can set down a marker to the effect that the petition should go to it. As a member of the Local Government and Transport Committee, I think that that committee should consider some aspects of the petition as well.

Stewart Stevenson: I think that the relevant body would be the Scottish Accident Prevention Council, rather than ROSPA. I have just looked it up.

The Convener: Thanks. It is always helpful if we can write to the right people.

Rosie Kane: I suggest that we seek the views of the Scottish Parent Teacher Council, the Educational Institute of Scotland and Transport 2000, which is a road safety organisation.

Ms White: I think that we should write to the bus companies, as they would have to provide the signage. Would it be within our remit to do so?

The Convener: Many companies are involved. If we write to one company, we will have to write to them all.

Helen Eadie: We could seek their views by writing to the Confederation of Passenger Transport.

The Convener: That might be the correct organisation to write to.

Ms White: I think that we should do that.

Paragraph 11 of the clerks' covering paper says:

"Requiring buses to remove safety signs when not in school use goes beyond the powers executivevely devolved to the Scottish Ministers".

Could we get round that by following Stewart Stevenson's suggestion relating to contracts?

The Convener: I think that, under the provisions of the Education (Scotland) Act 1980, it is for the local authorities to determine what is required of a bus operator in relation to the transportation of students to and from school. Because of that, it might be worth our writing to the Convention of Scottish Local Authorities to ask for its perspective on the issue.

Do we agree to write to the organisations that have been mentioned?

Members indicated agreement.

Ronnie Beaty: For the first time, Aberdeenshire Council has just agreed to a bus contract for five years instead of three years. If you decide that it would be best to implement the changes that we have been discussing by means of a contract, you should be aware that it will be four years before that contract would come into effect. I am not sure whether it would be possible to incorporate such a change into a contract that has already been signed.

The situation needs to change. I do not think that there is one person sitting at this table who does not represent a place in which a child has been injured or killed on the road.

The Convener: You are absolutely right. We will develop those recommendations and write to the identified organisations. Two parliamentary committees might have a legitimate interest in considering the petition further when we return to it. I thank the petitioners for bringing their petition to us this morning.

Direct Flights (Aberdeen to Stornoway) (PE882)

The Convener: Our next petition is PE882 from Murdo MacRitchie, which calls on the Scottish Parliament to urge the Scottish Executive to ensure the provision of a direct flight service between Aberdeen and Stornoway. Before being formally lodged, the petition was hosted on the e-petitions site from 2 September to 13 October 2005, where it gathered 1,496 signatures and 17 discussion comments. The usual e-petitions briefing has been circulated for members' information.

Since the petition was lodged on the e-petitions system, Eastern Airways (UK) Limited has announced that it is to launch a new service between Stornoway and Aberdeen with the introduction of a daily Monday to Friday flight from 9 January 2006. The route has qualified for support from the route development fund. The clerk has received confirmation from the petitioner that he is content with that outcome. The petitioner also praised the e-petitions facility, which assisted him in reaching people and defining the level of support for the service. It is up to members to say whether they think that there is something else we could do with the petition.

John Farquhar Munro: As it says in the briefing note, the service is about to be introduced by Eastern Airways.

The Convener: That is as far as we can go with the petition and we have to hope that the service will be a successful enterprise.

John Farquhar Munro: There was quite a bit of publicity about it in the Western Isles in the past few weeks. Do we need to do any more?

The Convener: I do not think so, John. I suggest that we close the petition.

Members indicated agreement.

Police Complaints Commission (PE890)

The Convener: Our next petition is PE890 from James A Mackie, which calls on the Scottish Parliament to support the creation in the Police, Public Order and Criminal Justice (Scotland) Bill of an independent police complaints commission, as agreed by the partnership, to ensure that complaints against the police by members of the public are properly investigated and acted on, and that any investigative powers should be retrospective.

Before being lodged, the petition was hosted on the e-petitions site where, between 26 July and 26 September 2005, it gathered 47 signatures. That information has been passed to members. Do members have suggestions about how to deal with the petition?

Rosie Kane: I agree with the petitioner that there should be an independent body. I understand that that is already the case in England, but I do not know how successful it is. The de Menezes case might show how good, bad or indifferent that commission is turning out to be, so we will wait and see. A request for such a body was also made during the Chhokar family campaign. I would like to hear the views of the Law Society for Scotland and the Scottish Human Rights Centre to know what they make of the suggestion. I would like to have spoken to the petitioner, but he is not here.

The Convener: You are absolutely right. The petition has been dealt with by the Parliament over some time. When I was on the Equal Opportunities Committee, I dealt closely with the Chhokar case. I remember that we spoke with the Minister for Justice at that time about the matter and I was happy that the partnership proposed some kind of body to undertake independent scrutiny of the police. I would like to know whether the bill that is currently before Parliament will achieve that. We could write to the Executive to clarify whether it intends for there to be an independent body to investigate the police.

Ms White: I agree absolutely. After reading some of the related documents and checking with the Justice 2 Committee, I am concerned that we might not have a completely independent body. Perhaps the petition should go to that committee for consideration. We should certainly seek the Executive's views. I agree with what Rosie Kane

said—it is much better to have clarification from the Executive to make sure that the proposed new body will be truly independent.

The Convener: To maintain speed, it might be best to send the petition straight to the Justice 2 Committee, which is considering the bill, and ask it to ensure that our questions are answered.

Helen Eadie: I support that suggestion. That should be done urgently, but the other suggestion to get clarification from the Scottish Executive was also entirely reasonable.

The Convener: I do not think that time permits us to take up Rosie Kane's suggestion that we contact the different organisations. If we refer the petition straight to the Justice 2 Committee, that committee will be able to take up that question. The Justice 2 Committee should also get back to us to satisfy us that the petition has been addressed.

Ms White: I assume that the different organisations will provide evidence to the Justice 2 Committee anyway, so I support that proposal.

The Convener: Is it agreed that we refer the petition to the Justice 2 Committee?

Members indicated agreement.

Mental Health (Care and Treatment) (Scotland) Act 2003 (PE889)

The Convener: Petition PE889, which is also from James A Mackie, calls on the Scottish Parliament to examine the workings of the Mental Health (Care and Treatment) (Scotland) Act 2003. In particular, it calls on the Parliament to examine the making available of legal representation and legal aid to patients who are detained in psychiatric wards and/or released to the community and those who are under the influence of prescribed antipsychotic and/or brain-altering drugs.

Before being formally lodged, the petition was hosted on the e-petitions site where, between 26 July and 26 September 2005, it gathered 43 signatures. Again, information on that has been passed to members for their consideration. Having considered that information, do members have any comments?

Phil Gallie (South of Scotland) (Con): I have attended today's committee meeting especially to speak to PE889. Over the years, I have been involved with a number of people who have been sectioned, released and then sectioned again. Currently, I am dealing with one case—I know that members have received papers about it—involving a Mrs Davis from Galashiels, who refers to her son, Barry.

The basic problem is that such individuals and their nearest and dearest frequently find that they

have no way of making their voice heard about the treatment that should be given. A further problem, as James Mackie's petition suggests, is that some drugs that are prescribed have side-effects that can add to the person's problems when they return to the community. For example, the drugs can increase the person's degree of uncertainty.

The extent of the problem can be seen from the number of times that people who have been released into the community have had to be sectioned again within a very short period of time. Often, they are picked up by the police for so-called unacceptable behaviour. I sympathise with the police but, like Mr Mackie, I suggest that we may need to examine what is happening in the hospitals and what drugs psychiatrists are prescribing.

I fully recognise that the Parliament dealt with the issue, at least in part, in the Mental Health (Care and Treatment) (Scotland) Act 2003. The new act should induce a change in practice and behaviour, but current experience suggests that such changes have yet to kick in. People are not aware of the changes.

Mr Mackie also refers to the use of solicitors. Depending on where people live, it can be almost impossible for them to find a solicitor who is expert in mental health issues.

The petition has much to commend it and should not be knocked out simply on the grounds that the 2003 act has only recently been brought to bear. There is a job to be done in monitoring the situation. If members who have had similar cases make the clerk aware of them, perhaps the committee could consider at a later date what should happen to the petition in the longer term. My main concern is that the committee should not simply say, "The 2003 act will cover all these issues, so let us drop the petition for the moment." Please do not do that.

The Convener: The problem is that the act has been in operation only since 5 October 2005, so it has had only 14 days in which to work. The petition specifically asks that the Parliament

"examine the workings of the Mental Health (Care and Treatment) (Scotland) Act 2003 Act".

It is a bit premature to start examining an act that has been in operation for only 14 or 15 days. It will be difficult to do that because we will not have sufficient evidence available on whether the act is working. That is not to say that the petition is not worthy of consideration, but I question whether we can effectively carry out what the petitioner requests.

11:15

Helen Eadie: I strongly support you, convener. The place for a review of the sort that is requested

would be the Health Committee, but I anticipate that the reaction from my colleagues on that committee would be the same as yours. As you rightly point out, the 2003 act came into force only this month. Our job as politicians is to promote publicly, along with our ministerial colleagues, the measures and safeguards in the act. It is clear from the papers that the act will help patients or their families to access advocates who can express their concerns. Some of the processes in the act through which people can go have not even been used yet, so it would be far too premature to judge the act now.

We must allow the measures that have been put in place to be used. For example, the act gives patients the right to access an advocate to enable them to express their views. Patients' families can also go to the Scottish public services ombudsman. Further, under the new complaints system in the national health service, the Minister for Health and Community Care is negotiating as we speak to establish with Citizens Advice Scotland a special independent facility that will handle complaints and help patients and their families. Although the Mental Welfare Commission for Scotland would initiate inquiries only if requested to do so by ministers or other bodies, it is around and will keep a weather eye on how the 2003 act is progressing.

I do not support the petition at this stage, although that does not mean that if evidence arises in the future, the issue could not be considered. However, it would be premature to do so now.

Rosie Kane: I think that the petition has come in at a good time because, although people now have a right to advocacy, they cannot get a lawyer. It would be useful if we started discussion and raised the issue now, because there is no point in people having a right if they cannot use it, which seems to be the situation in this case. I know from experience that, five or six years ago in Scotland, asylum and immigration were not big issues for lawyers, but now every single lawyer can deal with those issues and understands the legal and political complexities—that has happened quickly. So, as the 2003 act is just kicking off, the ask that is in front of us might assist the operation of the provisions by ensuring that the facilities exist to allow people to exercise their rights.

The Convener: I do not dispute that that is the intention of the act. However, the petitioner is asking for an examination of the workings of an act that has been in force for only two weeks. How could we possibly start to examine and scrutinise a process that is just starting and which, as you rightly say, could lead to better representation for people with mental health problems? We cannot examine it until sufficient evidence exists.

Phil Gallie: I do not disagree with that; if you recollect, I acknowledged that the act has only just come into force. However, I suggested that you should not simply kick the petition into touch because of that. I accept Helen Eadie's argument about giving the act time to work, but there is the element in the petition about the availability of solicitors—Rosie Kane hit on that. The committee could keep the petition alive and ultimately come back to consider the workings of the act at a later date. I am sure that everyone wants the act to be scrutinised. You could also write to the Law Society of Scotland to find out what it can do to make available solicitors who are expert in the mental health requirements. The Law Society will tell us that there is a list. However, the practicality of relying on that list depends on the area of Scotland in which people live.

The Convener: I do not think that there is any disagreement that the Law Society could inform us about that but, until—

Phil Gallie: The Public Petitions Committee could ask the Law Society to take an interest and ask it for its comments.

The Convener: But we have no evidence that the Law Society is not taking an interest. We are only two weeks into the operation of the 2003 act. If the petitioner was concerned that the legal profession was not supporting the act in the way that the provisions allow, a further petition could come forward at some point hence, allowing that concern to be addressed at that time. I do not know whether it would be very helpful of us to challenge the Law Society to do something about an act that has been in force for only two weeks.

Phil Gallie: You misunderstand what I am saying. I fully recognise what has been said about the 2003 act. I am not asking for the Law Society to make a judgment on that act. I am suggesting that the Law Society should give advice. It is not a case of putting it under pressure. It is a case of asking what facilities the society has to make the public aware of solicitors who are expert with respect to mental health welfare.

I refer back to the case of Mrs Davis. She found that a lawyer based in Dundee was the only one who had a degree of relevant expertise. However, that Dundee solicitor would not undertake a case in Galashiels. All I am suggesting is that we write to the Law Society and ask its opinions on the availability of lawyers throughout Scotland with expertise in mental health. How capable are lawyers of meeting the requirements of the 2003 act in the future? It does not matter when the act was implemented. It is simply a question that we could press.

The Convener: But that is not a question that the petitioner is asking us to press. We are on

dangerous ground. I am always careful not to set precedents. The petitioner is asking us to examine the workings of the Mental Health (Care and Treatment) (Scotland) Act 2003, whose provisions came into force only 14 days ago. You are asking us to widen that and to test what the Law Society is doing to ensure that the legal profession is aware of the act and all the rest of it. If the petitioner was concerned that the Law Society was not doing that, that is what the petition would be about. The petition is not asking us to do what you are suggesting. It would be dangerous for us simply to identify an issue and seek out something that we could do about it. If that was what we did, we would endlessly be looking for ways to make petitions do things that petitioners are not asking us to do. That would be a dangerous precedent.

Ms White: I understand completely what you are saying, I understand how difficult it is to get lawyers and I sympathise very much with what Phil Gallie has said. I have experienced problems with regard to asylum seekers. They might get a lawyer in one area but, if they move to another area, there might not be a lawyer who can represent them there. That is frustrating for everybody concerned.

The petitioner is asking us to examine the 2003 act, but he is asking in particular about making legal representation available. I very much sympathise with what Phil Gallie has been saying about the Law Society. Would it not be possible for the committee to write to the society, asking for its opinion on the petition? We basically want to know whether the Law Society is geared up to service the provisions of the 2003 act. That is what we and the petitioner are trying to find out with respect to legal representation.

The Convener: I think that that is a better question.

Phil Gallie: That is the question that I put.

The Convener: There is a difference between what you were asking and what Sandra White has suggested. We do not want to widen petitions beyond their scope. Sandra White is asking a legitimate question that is within the remit of the petition. That is where I always try to focus. If we word our questions appropriately rather than adopting a scattergun approach, we can take things forward.

Helen Eadie: I would agree with that. Our briefing note states:

“Public funding for representation in mental health cases is currently available. Solicitors can provide clients with representation before the sheriff in cases under Part V of the Mental Health (Scotland) Act 1984 using Assistance by way of Representation (ABWOR).”

The 2003 act embraces a range of provisions that will strengthen protection for patients. Your

first point is absolutely right—we need to give the act time to bed down. If, as part of our consideration of the petition this morning, we follow up on the point that Sandra White makes, I would be happy to support that. We would be enlightening both ourselves and the petitioners about which solicitors in Scotland specialise in this area of work. We all know that it is necessary to go to a specialist solicitor for criminal law or for litigation on accidents and injuries. Let us find out which solicitors in Scotland specialise in this area of work, so that we can promote it and do a useful task for the petitioners, Phil Gallie and others. We all want to ensure that the 2003 act works. The fundamental point is that the review that is proposed is far too early and needs to be thought about much further down the line.

The Convener: Are members happy for us to write to the Law Society of Scotland about the issue that Sandra White raised?

Members *indicated agreement.*

Rosie Kane: Would it be helpful for us also to write to the Scottish Association for Mental Health, to get its view. The people at SAMH are experts.

The Convener: Are you suggesting that we write to SAMH specifically on the availability of legal support?

Rosie Kane: Yes.

The Convener: There is no harm in our doing that.

Phil Gallie: I thank the committee for what I consider to be a smashing decision.

The Convener: Thank you, Phil. That is the last of our new petitions.

Current Petitions

NHS Prescribed Drugs (Storage and Dispensing in Schools) (PE639)

11:26

The Convener: The first current petition under agenda item 3 is PE639, which calls on the Scottish Parliament to investigate storage and dispensing of national health service prescribed drugs in schools.

At its meeting on 11 May 2005, the committee agreed to write to the Educational Institute of Scotland and to the Minister for Health and Community Care. Responses have been received from both and have been given to members for their information. Are members satisfied that the issues have been addressed?

Helen Eadie: I am. We could close the petition on that basis.

The Convener: Are members happy to do that?

Members *indicated agreement.*

Sewage Sludge (PE749)

The Convener: Petition PE749 is from Geoffrey Kolbe, on behalf of Newcastleton and district community council. The petition calls on the Scottish Parliament to seek a moratorium on the spreading of sewage sludge, pending a full inquiry into its safety by a parliamentary committee. The petitioner suggests that, depending on the outcome of the inquiry, Parliament should as a minimum initiate legislation at the earliest opportunity to discontinue the current exemptions for spreading sewage sludge and to ensure that it is subject to planning control, including a public local enquiry.

At its meeting of 22 June 2005, the committee agreed to invite the petitioner to comment on the responses that had been received from the Minister for Environment and Rural Development and from Scottish Water, which have been made available to members. We are joined by Euan Robson, who has an interest in the petition and would like to comment on it.

Euan Robson (Roxburgh and Berwickshire) (LD): Thank you for the opportunity to comment. The committee has obviously done a great deal of work on the petition. Thank you for the time and effort that you have put into it. There are areas of concern in which we could improve the current planning and regulatory process.

I will explain briefly what happened. My constituency includes the village of Newcastleton,

the residents of which one day found that heavy lorries were running through their village to a site some 8km to the north of it. They had no idea what the vehicles were, what they were doing and where they were going, because there had been no consultation of the community council or any local organisation before the activity commenced in the forest to the north of the village.

Although Scottish Water says that the site is remote from the village, it is on land that is higher than the village. Drainage passes through the site and into the local watercourses—the River Liddle is hard by the village. There are also concerns about drinking water quality, which have been addressed through local surveys by Scottish Water and the Scottish Borders Council. However, the petitioners are concerned to establish what mechanism exists to ensure and, perhaps, even to compel companies that wish to spread sewage sludge at least to inform the local community of what is happening.

11:30

There should be a regulatory or, indeed, a legislative framework to ensure that that happens because we are talking about a major activity that causes considerable concern. My community is not the only one that is affected. I see that Phil Gallie is nodding—he and Helen Eadie have been involved in tackling such issues. The forthcoming planning legislation will give us an opportunity to tighten up control of such activity.

When the practice represents legitimate fertilisation of land, there is general acceptance of it among the local community, but there is a concern about when fertilisation becomes dumping. There is evidence that some of the land at the site in question has been fertilised by application of sludge to a certain depth, but on other parts of the land, the sludge is lying to a depth that is well in excess of the depth that vegetation could grow through. It cannot be conceived that such practice enhances the land in any way; it is really just a way of dumping the material.

There is probably most concern about monitoring, not just of management of the site in which I have a particular interest and what appears there, but of the long-term implications of dumping sewage sludge at any site. On that, I am afraid that I must record criticism of the Scottish Environment Protection Agency. The local community has been far from convinced by SEPA's inspection activities and its failure to apply sanctions when problems were found at the site. In fact, the community's view is that had it not raised concerns with SEPA, the organisation might not have been on the site at all.

I have addressed those issues with SEPA. I acknowledge that there are difficulties in monitoring such sites, but I feel that it is imperative that public confidence be maintained, which requires application by SEPA of the appropriate regulations, constant monitoring of sites and reporting to communities, probably through their community councils.

The petitioners remain highly concerned. Through the community council, they have expressed much appreciation of the committee's work, but they hope that it will progress matters by suggesting to the Minister for Communities and the Minister for Environment and Rural Development that they consider strengthening the requirements to consult, at least. Although it might not be necessary for the ministers to go as far as to insist that planning permission be required in such cases, the committee should request that the Minister for Environment and Rural Development and SEPA ensure that there is much better and more rigorous monitoring of such sites. It would also be helpful to get some official clarification of when fertilisation of land becomes dumping and of what happens in such cases. Should the site be tidied up and the material removed, for example? I hope that I have not gone on too long.

The Convener: Thank you. That was helpful. Phil Gallie has some points to make.

Phil Gallie: That was an excellent explanation of the situation. I am concerned about the sites at Auchlin and Beoch in Ayrshire. There seems to be confusion about SEPA's responsibilities and, in particular, about whether it has responsibility for health matters. The issue needs to be examined thoroughly.

In my view, the specification of sewage sludge is open to question. The constituents of such sludge can vary; from time to time, it can contain different chemical compounds. There is no basic means of monitoring the constituents of sludge and maintaining that monitoring. I go along totally with what Euan Robson said.

I take Helen Eadie and John Farquhar Munro back to the committee's deliberations on Blairingone. The committee would do well to look again at some of the evidence that was taken at that time, and at the recommendations that were made by one health expert, who suggested that somewhere along the line an independent examination of the circumstances around such fertilisation should take place.

Helen Eadie: I strongly support what my two colleagues have said; they have presented the case well. Phil Gallie is right. Our inquiry on Saline and Blairingone was concluded prior to the Scottish Parliament elections, which meant that the work that arose from the inquiry was not taken

forward—it was stultified at that point. Work needs to be done on the issue.

The homes of some of my constituents border on the affected Saline and Blairingone area. One of my constituents wrote to me last night. She visited the Newcastleton site recently, because campaigners throughout Scotland have linked up strongly on the issue. Her principal concern is that neither Scottish Water nor SEPA can inform the public of the pathogen or industrial chemical content of all forms—including the pelletised form—of sewage sludge cake. Nobody knows what is contained in it.

My constituent also makes the point very well that Scottish Water's response to the committee mentions its duty of care, but does not mention what its role is with regard to the health of the public when their product is put on land adjacent to homes. I raised that matter with the Minister for Communities when we discussed planning legislation. I asked him whether there could be a health impact assessment separate from the environmental impact assessment. That was the subject of a paper from the University of Glasgow. The paper stated that planning legislation ought to promote the idea that there should be a health impact assessment as well as an environmental impact assessment. That suggestion sits very well in connection with this matter.

With regard to Phil Gallie's point about SEPA's health remit, my constituent says that there is still confusion about which authority the public should contact in respect of health matters that arise from sewage sludge. She asks: Who has ultimate responsibility and what are the planning implications for the local community council and other bodies? Apparently Ross Finnie has formally confirmed that SEPA has a remit, but how seriously is it taking that work forward?

There is a real issue in respect of the inquiry that was held all that time ago. The question of how we dispose of sewage sludge across Scotland is another issue. I am working with a company in my constituency that has developed a very good way of disposing of sewage sludge in the context of renewable energy. That company can provide up to 1GW of energy from its plant. The only obstacle at the moment is the length of time it takes for it to get renewables obligation credits. If we can work with companies such as that, which can deliver 1GW of electricity by using sewage sludge, coal slurry and municipal waste, that would be a much better option for us than dumping. I wholeheartedly support that initiative. When I meet the minister tomorrow to talk about the energy side of the issue, I hope to take forward that initiative. I will then perhaps get all the sewage sludge to the Dunfermline East constituency so that we can provide energy for many people in my area and in other members' areas.

The Convener: When we considered the petition previously, we suggested that when we had received responses from Scottish Water and the minister we would send the petition to the Environment and Rural Development Committee for its consideration. Now that I have heard the comments that have been made by Euan Robson, Phil Gallie and Helen Eadie, I think that it might also be worth sending it to the Communities Committee, which will scrutinise the forthcoming planning bill, so that it can address issues that have been raised this morning. If members agree, we could send the petition to both those committees for their consideration.

Phil Gallie: Would it be worth while looking back at the Blairingone inquiry report? As Helen Eadie rightly said, that report just disappeared. It might well contain something of value, given the length of time that has passed.

The Convener: It would be quite legitimate to suggest to the committees that they consider the petition in the context of Blairingone.

Helen Eadie: Blairingone and Saline.

The Convener: Yes; I am sorry.

Are members happy that we should do that?

Members indicated agreement.

Tax Collection (Legislation and Procedures) (PE766)

The Convener: Petition PE766 is by James Mackie, who calls on the Scottish Parliament to investigate the financial implications for businesses of the current system of collecting taxes by HM Revenue and Customs, and to change the legislation so that businesses have prior notification and the opportunity to address issues in front of a sheriff before a warrant is issued for the collection of taxes that are allegedly overdue.

At its meeting on 11 May 2005, the committee agreed to write to the petitioner. A response has been received from him. Having read that response, do members have any recommendations?

Helen Eadie: Could I suggest that we perhaps—no, I have changed my mind. I am sorry.

The Convener: Shall we just consider this petition to be exhausted and close it?

Members indicated agreement.

Community Hospitals (Scottish Executive Policy) (PE806)

The Convener: Petition PE806 by Mr Len Wyse calls on the Scottish Parliament to urge the Scottish Executive to review its policy on

community hospitals and in the meantime to introduce a moratorium on any closures of such hospitals, which are vital to the NHS in Scotland and particularly in rural areas such as the Scottish Borders.

At its meeting on 2 February 2005, the committee agreed to write to the Scottish Executive, the national workforce committee, the south-east regional workforce group, the national advisory group on service change and Borders NHS Board. Responses have now been received from all those organisations. Members have had a chance to look at those responses; are there any suggestions?

Helen Eadie: Perhaps we should ask the petitioner for his views on the responses.

The Convener: That would be our normal course of action. If members agree, we will await the petitioner's views.

Members indicated agreement.

Euan Robson: When would we want a response by? Mr Wyse is a constituent of mine and Borders NHS Board will come to a conclusion tomorrow on its recommendation on both Coldstream and Jedburgh cottage hospitals, which were the focus of the petition. Following that recommendation, there will be a period of public consultation, which will last until February.

I would like to advise my constituent. I presume that you would want him to get back to you fairly soon so that the committee's further deliberations can fit into the time before the board takes its final decision.

The Convener: We would not take a view on the board's decision, but the normal timescale for responses is six weeks.

Euan Robson: Thank you.

The Convener: I hope that we will get a response from the petitioner. It will then be up to Mr Wyse how he responds to the board's consultation.

Methadone Prescriptions (PE789)

The Convener: Petition PE789 by Eric Brown calls on the Scottish Parliament to take a view regarding the need for regulation to ensure that methadone prescriptions are taken by the patient while supervised by a suitably qualified medical practitioner. At its meeting on 27 April 2005, the committee agreed to write to the petitioner and the Scottish Executive. Responses have been received from each of them and circulated to members. Having considered them, what do members think?

Ms White: I have written to the Royal Pharmaceutical Society of Great Britain because I

was quite concerned by some of its comments. During the recess, I also visited various chemists at their request to find out how they give out methadone. I have been very impressed by Greater Glasgow NHS Board's initiatives. It would be a good idea to write to that board and to Lothian NHS Board. Feedback that I have received from the Lothians and Glasgow suggests that there are big differences in how methadone is prescribed. In the Glasgow chemists, I was told that if someone did not turn up for their methadone prescription within a couple of day they would be contacted. The chemists are always in touch with people.

In the light of the recent tragedy in the Leith area of Edinburgh, it is important to consider what happens in the Lothian NHS Board and Greater Glasgow NHS Board areas and to find out exactly what the differences are. We should keep the petition open.

11:45

The Convener: We can write to Lothian NHS Board and Greater Glasgow NHS Board to get their views on the matter.

Ms White: Yes.

The Convener: Are members happy with that suggestion?

Members indicated agreement.

Food Chain (Supermarkets) (PE807)

The Convener: Petition PE807, from James Mackie, calls on the Scottish Parliament to urge the Scottish Executive to conduct an inquiry into the influence of supermarkets on the food chain and, in particular, to examine safety issues arising from the use of chemicals to extend the shelf life of products and from central purchasing and distribution, and the impact of supermarket trading on local economies and small producers.

At its meeting on 20 April 2005, the committee agreed to write to the Scottish Executive, the Office of Fair Trading, the Food Standards Agency, the Scottish Consumer Council, the National Farmers Union Scotland, Friends of the Earth Scotland and the Institute of Grocery Distribution. The responses that we received have been circulated to members. I invite members to give their views on them.

Helen Eadie: Can we write to the Office of Fair Trading to ascertain and clarify the outcome of the review of its report of 22 March, and ask the Scottish Executive about its contribution to the United Kingdom Government's response to that report?

The Convener: Are members happy with that suggestion and that we should wait to find out what the OFT says?

Members indicated agreement.

Secondary Schools (Lockers) (PE825)

The Convener: Petition PE825, is from Alana Watson on behalf of Rosshall Academy students council and higher modern studies section. The petition calls on the Scottish Parliament to urge the Scottish Executive to ensure that every Scottish secondary school provides lockers for pupils' use in order to prevent pupils from having to carry heavy bags throughout the school day, which could cause back problems.

At its meeting on 16 March 2005, the committee agreed to write to the British Chiropractic Association, the British Back Pain Association, the Association of Directors of Education in Scotland, the Association of Head Teachers in Scotland, the Headteachers Association of Scotland, the Scottish Youth Parliament, Glasgow City Council and the Minister for Education and Young People. All their responses have now been received. What do members think about them?

Helen Eadie: We have received good responses from those organisations, but can we invite the petitioners to say whether they think the responses are good?

The Convener: Yes. We could keep the petition open until we have received a response from the petitioners. Is that agreed?

Members indicated agreement.

Disabled People (Local Transport) (PE695)

The Convener: Our final current petition is PE695, from Jan Goodall, on behalf of Dundee accessible transport action group. The petition calls on the Scottish Parliament to ensure that local authorities have affordable and accessible local transport available for disabled people who cannot use public transport, and to provide ring-fenced funding to allow local authority and/or community groups to provide dial-a-ride projects for that purpose.

At its meeting on 25 May 2005, the committee agreed to write to the petitioner and to pass the petition to the Equal Opportunities Committee for information only. Responses have been received from the petitioner and from the Community Transport Association. What should the committee do?

Helen Eadie: It is good to see such an important issue being progressed. Can we write to the Minister for Transport and Telecommunications to ask for his views on the responses and to ask him when the research on the transport needs of disabled people in Scotland is due to be published?

The Convener: Do members agree with that proposal?

Meeting closed at 11:48.

Members *indicated agreement.*

The Convener: That ends the meeting. I thank members for attending.

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