

PUBLIC PETITIONS COMMITTEE

Wednesday 31 January 2007

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Wednesday 31 January 2007

| | Col. |
|--|-------------|
| DECISION ON TAKING BUSINESS IN PRIVATE | 3029 |
| NEW PETITIONS | 3030 |
| A90 Deceleration Lane (PE1020) | 3030 |
| Assisted Suicide (Opposition to Legislation) (PE1031) | 3038 |
| Scheduled and Listed Buildings (Management) (PE1013)..... | 3043 |
| Bus Services (Funding) (PE1027) | 3054 |
| Independence Day Public Holiday (PE1029) | 3060 |
| Human Rights Abuses (China) (PE1030) | 3061 |
| Solicitors (PE1021) | 3064 |
| Bottled Water Contracts (PE1028) | 3065 |
| CURRENT PETITIONS | 3067 |
| Adults with Learning Difficulties (Provision of Services) (PE743) | 3067 |
| “The same as you? A review of services for people with learning disabilities” (Implementation) (PE822)..... | 3067 |
| “The same as you? A review of services for people with learning disabilities” (Findings) (PE881) | 3067 |
| Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 (PE767) | 3069 |
| NHS (Provision of Wheelchairs and Specialist Seating Services) (PE798) | 3070 |
| Mental Health Services (Deaf and Deaf-blind People) (PE808) | 3072 |
| Small-scale Energy Generation Equipment (PE837)..... | 3073 |
| Renewable Energy Technology (Installation) (PE969) | 3073 |
| Scottish Culture (Study of History, Literature and Language) (PE910) | 3074 |
| European Drinking Water Directive (PE929) | 3074 |
| Housing (Right to Buy) (PE950) | 3075 |

PUBLIC PETITIONS COMMITTEE

2nd Meeting 2007, 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

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Colin Fox (Lothians) (SSP)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Niall Campbell

Mr David Davidson (North East Scotland) (Con)

Linda Fabiani (Central Scotland) (SNP)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

Rev Alex MacDonald

Professor Donald MacDonald

Margo MacDonald (Lothians) (Ind)

Canon Donald MacKay

Councillor Paul Melling (Aberdeenshire Council)

Mr Alasdair Morrison (Western Isles) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Margaret Smith (Edinburgh West) (LD)

James Simpson

CLERK TO THE COMMITTEE

David McGill

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Wednesday 31 January 2007

[THE CONVENER *opened the meeting at 10:33*]

Decision on Taking Business in Private

The Convener (Michael McMahon): Good morning, everyone, and welcome to the Public Petitions Committee's meeting. I have received apologies from Rosie Kane and Charlie Gordon.

Agenda item 1 is to decide whether to take item 4 in private, as it concerns claims under the witness expenses scheme, which involves issues that are private to members of the public. The practice of this committee and others has been to take such matters in private. Do we agree to take that item in private?

Members indicated agreement.

New Petitions

A90 Deceleration Lane (PE1020)

10:34

The Convener: Item 2 is new petitions. Our first new petition is PE1020, from Councillor Paul Melling, on behalf of his constituents in Portlethen South—ward 60 in Aberdeenshire—which calls on the Scottish Parliament to consider and debate the safety issues in relation to the requirement to construct a deceleration lane for access to the Bruntland Road junction in Portlethen South from the A90. Councillor Melling will make a brief statement to the committee in support of his petition.

I welcome Councillor Melling. You will have a few minutes to make a statement, after which we will discuss the petition.

Councillor Paul Melling (Aberdeenshire Council): Good morning, convener, and thank you for allowing me to speak in support of petition PE1020, which was handed to you on 8 November 2006. The petition requests the Scottish Parliament to consider and debate the safety issues in relation to the requirement to construct a deceleration lane for access to the entrance to Portlethen South at the Bruntland Road junction off the A90 dual carriageway.

I have a copy of the petition that I handed you on 8 November. I will go through the concerns that the petition raises and the reasons why I am here. I also have enlargements of the photographs that accompany the petition if anybody wishes to have a copy.

The Convener: The clerks can arrange that and we will circulate the information to members as the debate continues.

Councillor Melling: Thank you. Various letters have been sent to the various bodies to ask for a review of the junction, but to no avail. We also have letters in support of the petition from Aberdeenshire Council's Kincardine and Mearns area committee and so on. It may be seen from the photographs that the junction is very bad. It is a staggered junction across the A90 dual carriageway with bus stops on either side. Access is provided to a cottage on the northbound side of the carriageway, where a slip road to local farms was also recently constructed. When that happened, I expected a slip road to be constructed on the southbound carriageway into Bruntland Road, but that did not happen.

I have lobbied the Scottish Executive for a review of the junction for more than three years. I have the support of the local roads department

and I presented a motion at the Kincardine and Mearns area committee on 10 October asking for its support in lobbying the Scottish Executive to provide a deceleration lane for vehicles that are leaving the A90 on the south side to enter Portlethen South at Bruntland Road. A copy of the letter is with the petition.

I have sent a detailed report and various letters and I have had a consultation with the manager of BEAR Scotland, which is the trunk road authority. More than three years ago, I was assured that the junction would be given the highest priority. I have constituents who are afraid to turn in at the entrance because of the intimidation from the large 40 to 50-tonne trucks that bear down behind them. In that situation, my constituents feel safe only if they proceed to the flyover at Newtonhill, which is approximately a mile from the junction that they are trying to access. They return to cross the A90 at Bruntland Road, which is a precarious manoeuvre when the A90 is full of traffic.

We are forever being told to put safety first. Will the Scottish Executive help me to make the junction safe by providing a deceleration lane before we have more serious injuries or another fatality? One car has already gone into the ditch at that spot and other minor accidents have occurred. Another accident occurred on Tuesday 19 September 2006; it involved a motorcyclist and a car. How many more accidents must occur before we have action?

The most recent letter that I received from the Minister for Transport, which is dated 15 June 2006—it is enclosed with the petition—says that the Executive is aware of the need for a deceleration lane but considers it a low priority. With more than 250 signatures on the petition and support from my constituents, I hope that we can make it a high priority, especially as another entrance to Portlethen has closed.

As I have said, in the past three years, I have asked for the junction to be improved before anyone is killed. I am sad to say that, since I handed the petition to the convener, the motorcyclist who was mentioned in the supporting information has died while being treated in hospital for his injuries. I appeal to the convener and the committee to take the petition forward before any other road user is injured or killed as a result of this very bad junction.

The Convener: Thank you, Councillor Melling. Has your local authority calculated the cost that would be incurred by providing a deceleration lane? How far would it run, and what would be the cost of building a lane of that length?

Councillor Melling: To my knowledge, the authority has not costed the proposal. However, the roads engineer to Aberdeenshire Council has

presented a variety of scenarios for the junction. Unfortunately, the briefing is not included in the petition, because I received it only after the petition had been submitted, but it shows the options that are available. I would like options D and E to be adopted. I understand that it is rather early to cost the proposal. If the committee is minded to support the petition, the authority will have to examine the engineering content of what is proposed. I am asking for a deceleration lane of sufficient length to enable the traffic on the inside lane of the A90 to slow down there—as the word “deceleration” suggests. At the moment traffic slows down on the A90, which means that there is a danger of large lorries up-ending or having other vehicles go into the back of them.

John Scott (Ayr) (Con): Thank you for bringing your petition before us today. Presumably you have discussed the issue at length with Transport Scotland, which is less than sympathetic to your proposal.

Councillor Melling: That is correct. As I said, a number of years ago the manager of BEAR Scotland came to my house, where I gave him photographs of the junction and expressed my concerns about it. When he left, he said that he would raise the issue. It came up at a meeting of the area committee at which the Enterprise, Transport and Lifelong Learning Department was represented, but nothing has happened yet.

John Scott: Do you feel that your proposal is being turned down on grounds of cost or because it is not necessary?

Councillor Melling: I do not know. I refer to the letter that I received from the Minister for Transport, which said that he was well aware of the proposal and that it was being considered but that he did not think that it was a priority. I cannot say whether it is not seen as a priority on grounds of cost or because it is not necessary.

John Scott: Do you have figures for the projected increase in the volume of traffic on the road? The current situation may be bad, but is it projected that the volume of traffic will increase?

Councillor Melling: A large development is under way at Portlethen. I do not want to confuse the committee, but I would like to give members an indication of the development's scale. The sheet that I am holding up shows what is to be built at one of the junctions that are currently closed. When I was trying to interest the Executive in my proposal, we had a series of traffic problems at another junction, the Badentoy turn-off, where we had to build an additional slip road. We were hoping to get a further slip road built because of the danger of increasing traffic coming in at the south end of Portlethen, given that the north entrance is shut and the junction in the middle is

somewhat congested. When the development has been built, traffic will increase in the vicinity of the entrances to and exits from Portlethen.

10:45

Helen Eadie (Dunfermline East) (Lab): Good morning, Councillor Melling. In your presentation, you mentioned that the second entrance into Porthlethen was closed. Could you explain why that entrance was closed?

Councillor Melling: It is all part of the development that we are getting in Portlethen. The entrance was shut while an extra lane was developed to help to mitigate traffic problems. That junction, which is not the Bruntland Road one, is the major access into Portlethen and the immediate community, shops and so on for traffic coming off the A90. Because of the anticipated increase in volumes, it was decided to put in an extra lane at the junction, so it was temporarily a restricted entrance into Portlethen.

The slip road that takes the traffic over the bridge to the Badentoy industrial estate directly across from the A90 is now open and running. It is under review and I understand from the council roads department that a technical audit will be carried out. I have been extremely concerned about that slip road. I am not a roads engineer, but in my real life I work in design so I see things that are brought to the department's attention. We have had a lot of discussions, and I was assured that the modelling for the junction works, so the authority had to accept it. However, it is up for a technical review even though it is running.

Helen Eadie: I notice from the papers that you have made representations to Nicol Stephen, who was Minister for Transport at the time, and Mike Rumbles, who is here this morning. Were those representations in the form of meetings or letters? My second question is about the development that you are talking about. Have you met the developers and planning officials to consider whether there might be any scope for the developers to be involved in financing a slip road? I know that that regularly gets done in Fife. When we need access to a new housing development, part of the negotiations is that the developer has to finance a new slip road. To what extent have such negotiations happened?

Councillor Melling: My correspondence with Nicol Stephen is in another A4 binder at home. My concern when I wrote to him was the development of the Aberdeen western peripheral route—we are going back three or four years now. I wrote and spoke to him to raise my concerns, and I presented what I felt was a good case for developing the A90 from Stonehaven to Aberdeen

and giving it motorway status or something equivalent.

At that time, we had planning applications for the current development and for a business park a wee bit further north, at Marywell. Both developments were going to bring more traffic and add to the congestion of the A90 in the immediate vicinity of Portlethen. As I am a local councillor, that gave me great concern for my constituents and for people who could end up as my constituents in future by living in the Hillside development. I tried to alert the Executive to the planning applications that were coming through, and I expected that all the slip roads, entrances and exits in Portlethen would be catered for by contributions from the developers, the Executive or whoever. That is the point from which I have been pursuing the issue.

Now we all know that there is a possibility that, when the AWPR is built, there will be a spur that will help to alleviate direct traffic heading north or south on the A90. In some respects, that will improve the traffic situation and take care of my suggestion for motorway status for that part of the A90. However, none of us can tell how much traffic all the business parks and housing that are being built will generate. One of the entrances that is currently shut will be reopened, but there are no concessions on the entrance to the Bruntland Road development.

Ms Sandra White (Glasgow) (SNP): I apologise for being late; I made the mistake of going out of the building and could not get back in. That may be the fault of all the security that we have today, or it may just be me.

I know that when councils propose traffic crossings and so on they use a set of criteria, such as the number of fatalities and accidents that there have been at a particular spot. Do you have figures for fatalities, accidents or incidents at the Bruntland Road junction? Does the council or Transport Scotland have such criteria?

Councillor Melling: The figures that you seek are included in the petition.

Ms White: Has cognisance been taken of the figures that you have provided for incidents and accidents?

Councillor Melling: Yes—they are included in consideration of the proposal. There have been a number of accidents and a fatality at the junction. I appeal to the committee to help me to prevent that from happening again. I am particularly concerned by the danger that the bus stops on the junction pose. Members can see from the photographs that have been provided that there is also a house entrance at the junction. Because it is a staggered junction, at times it is congested with vehicles trying to get in and out. The photographs show

vehicles and buses trying to get in and out at the junction. That is quite a concern for me.

The Convener: This morning, the committee is joined by Mike Rumbles and David Davidson, who are local MSPs who have an interest in the petition.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I want to add to what Paul Melling has said. People have lived with the junction since the A90 was built, and over the years the volume of traffic has increased tremendously. The junction is so dangerous that I never use it when travelling into Portlethen. As Paul has described, if someone travels south from Aberdeen and turns into Portlethen at the southern entrance, they must slow right down and take a sharp left turn off the A90, which is a dual carriageway. All the traffic that is travelling at 70mph, at least, behind them must break or transfer lanes; the problems are horrendous.

The solution is simple and straightforward, and I cannot understand why it has not been implemented. There is an open field right beside the junction—there are no houses there. There is plenty of room for a simple deceleration lane at one side of the carriageway. In my view, the only issue is cost, because BEAR Scotland and everyone else concerned accepts that the lane should be built, but it is not “a high priority”.

When Paul Melling handed the petition to the convener at the end of last year, both he and I said that we really wanted the committee to take action and that this was the only route that was left open to us—Paul had tried everything else. We wanted the committee to help us to tackle the problem, because we did not want anyone to die before that was done. Unfortunately, as the committee has heard, an individual has died since the petition was handed in.

The problem could not be more serious, but the improvement and solution are straightforward. It is a question of road safety. In the end, it must come down to priorities, as I know that whoever controls the budget has to prioritise, but this is what the Public Petitions Committee is for. Paul Melling has done the correct thing in bringing the problem to your attention.

I will close by saying that I hope that the committee will recommend that the Parliament take the petition forward in some way. I know that one way is to refer it to the Local Government and Transport Committee and, as a member of that committee—the convener of this committee is also a member—I think that that would be useful. Obviously, it is entirely up to you how to take it forward, but the issue needs action.

Mr David Davidson (North East Scotland) (Con): I am delighted to support Councillor

Melling. He has been talking this morning about what he has been doing since he became a councillor in 2003. I had a meeting with Lewis Macdonald about a series of junctions, including the one in question, about two years before that election.

There has been a continuous spate of accidents on a stretch of road that is about 5 miles long and includes the junction that Councillor Melling is talking about. There is a lot of cross-traffic, and children are taken to school across the dual carriageway. People where I live, which is about 6 miles away, will not use that road or junction to get into Portlethen even if they want to go there. Instead, they go further up the A90 to use the flyover, go back into the middle of Portlethen and then work their way to where they want to be.

I was there the other day. With one junction currently closed for works, everything is pushed to use other junctions that are not safe. The problem runs from Aberdeen into Stonehaven, and I have raised the issue using the traffic figures that BEAR has supplied. I have met Transport Scotland and three ministers, all about improving road safety. The easiest and cheapest way to save lives on that stretch of road is to build proper deceleration lanes with the correct surface. One or two have been added further south, but they are still not adequate.

The A90 is going to be upgraded in the next few years once—if—the AWPR spur is built, but that will not solve the problem. Traffic comes south, Charleston is just down the road, and hundreds of new houses are being built. Councillor Melling talked about another 800 houses being built, and the story goes on. We have to ask what the value is to the Parliament of preventing a death or serious injury. There have been so many. I ask the committee to take the petition forward in whatever way it can.

The Convener: Okay, I will ask members to suggest how we can take it forward.

Helen Eadie: Road safety is paramount, and it is dreadful when we see the sheer carnage and loss of life that there was at the weekend.

There seems to be a window of opportunity when developers move into an area. If we write to the Scottish Executive, we could ask it to consider in particular the fact that there are developers in this area and that there may be a window of opportunity for shared resources to be used. I appreciate that the Executive has to have priorities and budgets that fit them and that the junction in question might be low on the list. However, when a developer is in the neighbourhood and such needs are expressed in a community, that should be accounted for and there should be a system for flagging up in the Executive that the developers

are there. That point could be made to the Executive if we write to it, and we could write to Aberdeenshire Council to make the same point. It seems to be an issue in a number of communities across Scotland.

We could also write to the RAC Foundation for Motoring to get its views on the issues that have been raised. It would be helpful to do that, because we are deeply concerned about such issues, especially when lives are lost.

Jackie Baillie (Dumbarton) (Lab): I do not disagree with any of that. I have considerable sympathy with the petition, but I am conscious that we are not considering it in the context of other pressures that may exist. It does not take me to tell the committee that roads elsewhere may represent a greater danger in terms of the number of fatalities. Although it does not diminish the petition before us, we need to understand that.

I agree with Helen Eadie. If there are other opportunities, let us look at them, but I also want us to inquire of the Executive where the issue that is raised in the petition fits and when it envisages getting round to doing the kind of work that the petitioner is looking for.

11:00

John Scott: I have an additional suggestion. It might be interesting to have the views of the Royal Society for the Prevention of Accidents. We could write to it and ask what it thinks of the priorities of Transport Scotland or the Executive and whether their assessment of the road is correct.

The Convener: John Scott mentioned Transport Scotland. It is worth writing to it directly to find out whether it has any useful information about the road.

Councillor Melling, we will write to all those organisations with the questions that have been raised this morning. Once we have collected all the responses, we will let you see them. We would then welcome your comments before we consider the petition again at some point. I say to Mike Rumbles that, depending on those responses, if the committee cannot progress the petition, it is probable that we will refer the petition and the responses to the Local Government and Transport Committee.

Councillor Melling: Thank you for that, convener. Mike Rumbles spoke about coming off the A90 at the Bruntland Road junction, but I omitted to mention that I do that quite regularly. As Mike Rumbles says, it is not possible to come off at the junction at a greater speed than 20mph—drivers have to decelerate on the A90 to no more than that speed. When the junction was clear one day, I tried to come off the road at 25mph and

ended up going across the white line at Bruntland Road. That is the sort of speed drivers need to keep to in order to access the junction at present.

The Convener: We include the *Official Report* of meetings with the correspondence that we send to organisations so your points will be contained in that. I am sure that they will take your comments on board when they respond to us. Thanks very much for bringing your petition to us this morning.

Councillor Melling: Thank you.

The Convener: As the next petitioner has not yet arrived, with the committee's agreement, we will skip to our third new petition this morning.

Assisted Suicide (Opposition to Legislation) (PE1031)

The Convener: Our next new petition is PE1031 by Professor Donald M MacDonald. It calls on members of the Scottish Parliament to oppose the introduction of any legislation that would permit assisted suicide. Professor MacDonald will make a brief statement to the committee in support of his petition. He is supported this morning by Canon Donald MacKay and the Rev Alex J MacDonald. I welcome you all to the committee. You have a few minutes to speak and then we will discuss the issue that you have brought before us.

Professor Donald MacDonald: Good morning and thank you, convener, for the opportunity to address your committee. Just a year ago, there was an unsuccessful attempt to introduce a member's bill to legalise assisted suicide. Many of us are concerned that such a bill might well be introduced in the new session. The petition is to request MSPs to oppose the introduction of a member's bill that would legalise assisted suicide for people who suffer from incurable or terminal illnesses.

I will highlight just a few reasons why we oppose such a bill. The principle of the sanctity of, or utmost respect for, human life has been basic to our civilisation. It is upheld not only by the Christian religion but by all the major world religions. It is also supported by the ancient Hippocratic tradition, which lies behind modern medicine, that the doctor's duty is always to care and not to kill. We are convinced that that principle demands that we do not deliberately end anyone's life, even at a time of suffering. Rather, we should do all that we can to relieve that suffering and to give support to the very end. That is why we emphasise in our petition the importance of the wide availability of good palliative care. As members know, Britain—Scotland, in particular—has been a world leader in provision of palliative care. It has been shown that, where good palliative care is available, the number of requests for euthanasia or physician-assisted suicide is

greatly diminished. However, when euthanasia and physician-assisted suicide are legalised, as in the Netherlands and the state of Oregon in the USA, palliative care suffers and is not well developed.

As well as the principle of the sanctity of human life, there are various pragmatic reasons for opposing physician-assisted suicide. If it were legalised, it would alter fundamentally the doctor-patient relationship. The doctor would no longer be seen as the person who will support and care for someone at all costs, but as one who might well end life. That should be resisted.

There are also practical dangers. Someone might be wrongly diagnosed as being terminally ill. Depression is common among patients who receive such diagnoses and they might well request assistance in ending their own lives. If the depression were treated, they would not request such help. There is also the danger, if physician-assisted suicide were introduced, that there would be pressure on people who were terminally ill, or that those people would request—perhaps for financial reasons—that their lives be ended because they felt that they were a burden on others. If physician-assisted suicide were legalised, it would have the overall result of diminishing our respect for human life at its weakest and most defenceless.

I want to end on a personal note. I have an illness—multiple sclerosis—that is slowly deteriorating, and I may well have a slow and lingering death. I do not want that process to be shortened in any way, but I want all necessary facilities, care and support to be available to me. I fear that if euthanasia or assisted suicide are legalised, people will prefer to take the easy way out and will lose the desire to provide support and help, which is often burdensome and wearing, both to those who care and to the person who is dying. To ensure that people die with dignity, it is better to give them all the support that is needed, through palliative care, than to end their lives summarily by giving them a lethal substance. I call on MSPs to resist such legislation.

The Convener: Thank you, Professor MacDonald. I invite members to put questions to the petitioners.

Helen Eadie : Good morning. I notice from the papers that are before us that the British Medical Association appears to have changed its stance on assisted suicide. Last year it was neutral, but now it is opposed to it. Does the same apply to any of the other professional organisations? Would you like to expand on that matter?

Professor MacDonald: Even before the BMA changed its position, the professional associations for palliative care, general practitioners and

geriatricians were opposed to physician-assisted suicide; they have never had to alter their stance on the matter. Only the BMA temporarily had a neutral stance, although it did not support physician-assisted suicide. However, at its annual general meeting last year, it opposed physician-assisted suicide—much less than 40 per cent of doctors support physician-assisted suicide.

Ms White: You have a disease that is slowly degenerative, for which you have my sympathy, and you want to live regardless of the disease—that is your choice. You have such a disease and you choose to continue to live, but is it right to remove the choice of someone else who has the same debilitating disease, who is of sound mind and who wishes to end their life and not live with the disease for 20 or 30 years? Should that person have the choice?

Professor MacDonald: The problem with the idea that people should be able to decide when to end their lives is that it is based on patient or personal autonomy. As a Christian, I resist that, because I believe that our lives are in God's hands. However, even those who do not believe in God have a duty not only to themselves, but to society in general—to other people. Nobody lives to himself or herself alone. Another person's life is important to me, as my life should be important to them. My deciding to end my life would not mean that another person had a duty to aid me in that.

It is wrong to put a burden on doctors and the medical profession to have a duty to end someone's life; the doctor's duty is always to care for and support someone until their life naturally ends. I do not accept the patient autonomy argument that people should have the right to decide to end their lives with help. There is no doubt that if a person decides to commit suicide, they are at liberty to do so. That is not and has never been a crime a crime in Scotland, although it is of course to be deprecated and we do not encourage it. We should certainly not encourage people to help others to commit suicide.

Ms White: You will know that Jeremy Purvis's bill was dropped because not enough MSPs supported it. Did you lodge the petition to ensure that no similar bill is introduced in the next parliamentary session? No similar legislation is proposed at present.

Professor MacDonald: That is correct. We believe that Jeremy Purvis or somebody else may well try to reintroduce such a bill. At the Westminster Parliament, further attempts may be made to legislate for the whole United Kingdom. We want to pre-empt that by persuading people now.

Jackie Baillie: I will pursue that point. Scots law is clear: euthanasia is unacceptable and is

considered contrary to law. The bill proposal that our Liberal colleague Jeremy Purvis introduced fell because of insufficient support from MSPs. Does anything suggest that that level of support will change so that a proposal from a similar quarter would be supported?

Professor MacDonald: I know of no evidence and I have heard of no movement among MSPs that would change the position. However, we want to make our views known.

Jackie Baillie: Absolutely—but perhaps you should take some comfort from that position.

You suggested in your introduction that the prospect of Jeremy Purvis's bill returning is live. Is that the case or is that just a fear for the future?

Professor MacDonald: I have not contacted that MSP, but I believe from press reports that he intends to reintroduce such a bill, although I know of no definite plans for that to be done.

Jackie Baillie: Notwithstanding any individual's persistence, given the current crop of MSPs, it is unlikely that such a bill would attract more support.

The Convener: The committee is joined by Alasdair Morrison MSP, who has an interest in the petition. Do you want to comment before we deliberate the petition?

Mr Alasdair Morrison (Western Isles) (Lab): I thank the convener and his clerking team for their assistance. I distributed the petition throughout my constituency in a few weeks, during which some 2,500 people supported it. All members have a copy of the petition, which simply says that

"we have a moral obligation to preserve our own life and the lives of others"

and

"we believe that the concept of physician assisted suicide has no place in our society".

That view has enjoyed support throughout my constituency. It is not my duty or responsibility to articulate the views of other residents in Scotland, but given the number of signatures that it attracted in a number of weeks—a relatively short time—the petition certainly enjoys the support of a fair percentage of my constituents. I am grateful to the reverend gentlemen who have come along to contribute today.

11:15

The Convener: I should probably declare an interest in that I am the convener of the Parliament's cross-party group on palliative care, so I obviously have an interest in the subject. Just for the record, I have been involved in the group for almost eight years since the inception of the Parliament, during which I have been amazed at

the progress that has been made in palliation and the hospice movement. Only recently, for example, agreement was reached on developing another hospice in Lanarkshire, although there is still much more work to be done. We have seen new hospices for children, and hospices have been developed in the Highlands and elsewhere as palliation and the hospice movement grows, but much more positive work can be done.

It would be useful to know from the Executive its views on the general issue and what more progress in palliation it envisages and is willing to support. I have had some discussions with Jeremy Purvis because of my position on the cross-party group. He has attended the group on occasions to talk about his proposal; he intends, if he gets the opportunity to do so, to continue to press his argument. Even if that is not done through a bill, he certainly wants to keep the issue live.

Given the petition, it would be useful to seek the Executive's views and to write to the Scottish Partnership for Palliative Care, which is the umbrella organisation for all the charities and organisations that are involved in palliation and the hospice movement, to seek its views on what progress is being made and can be made in the near future. That might address some of the issues that have been raised by the petitioners this morning.

Helen Eadie: I would support that action. Today's discussion has been valuable—I was not aware that Britain has been a world leader in developing palliative care. That is new information to me and I am pleased to hear it and that Scotland is playing an important part.

It was especially interesting to note in the petitioners' papers that the Netherlands, where euthanasia is allowed, does not have a well-developed system of palliative care. That is informative. I am pleased that the petitioners have brought their petition to Parliament because it helps the debate, which I know is controversial. I did not support Jeremy Purvis' member's bill.

Mr Morrison: Given the gentlemen's responsibilities in various parishes across the country, would it be appropriate to ask them about their professional experience and how they interact with parishioners?

The Convener: If either of two reverend gentlemen wants to make short contribution, they can.

Canon Donald MacKay: I am very happy to be associated with the petition and the convener's comments about palliative care being highly developed. That is great news, as is the news that the Scottish Parliament does not seem to be heading swiftly down the road of supporting assisted suicide. I do not think that palliative care

and its development would rest easily with a country that also supported assisted suicide.

Suicide is always seen as a tragedy, and to try to give the term a positive spin does not work. I also do not think that it is fair to make universal laws out of individual cases that can be emotionally suggestive. We have to understand the whole issue of life and death, which is inevitable for us all. The individual and the country or the state must have a principled and intellectual relationship with that and must accommodate it in how we live.

Another matter is that people should be able to live with dignity. I have seen many more people living without dignity than dying without dignity. Everybody whom I have seen in 30 years of attending people at their death beds has died with dignity, but I have seen many people who have not been given much of an opportunity to live with dignity.

The Rev Alex MacDonald: I will give one example. A man suffered a stroke. To begin with, it was clear that he was so frustrated and depressed that he was not eating. A person in such a situation could feel suicidal. However, after a little while, with care in the hospital and with the support of friends and so on, he is making a recovery and is much more positive, although he has limited communication. People may undergo a stage of feeling that they want physician-assisted suicide, but with the right care, that can pass.

The Convener: Okay. Will we write to seek the responses of the Executive and the SPPC to the issue that the petitioners have raised?

Members indicated agreement.

The Convener: I thank the petitioners for presenting their petition.

Scheduled and Listed Buildings (Management) (PE1013)

The Convener: Our next petition is PE1013, by Niall Campbell, who calls on the Scottish Parliament to urge the Scottish Executive to review the arrangements for managing scheduled and listed buildings, such as Rowallan old castle, to ensure that when owners have made suitable and sensitive plans for restoring such buildings in a way that will allow public access, such developments are encouraged to proceed.

Niall Campbell will make a brief statement to the committee in support of his petition. He is supported by James Simpson. Thank you for coming.

Niall Campbell: First, I apologise on behalf of Mr John Campbell, who was meant to be here but

had to call off because the meeting was rescheduled.

Good morning, ladies and gentlemen. My name is Niall Campbell and I am the owner of Rowallan Castle and the surrounding estate in East Ayrshire, near Kilmarnock. I am 57 and have nearly 40 years' experience of working in the building business. I am a time-served mason and a civil engineer. I am a freeman of the city of Glasgow and a member of the Merchants House there.

In my time, I have worked on stone at Glasgow cathedral, Paisley abbey and Culzean Castle—I restored the home farm there, which is now a premier visitor attraction. I have received a Civic Trust award for the Byres Road arcade in Glasgow and a Saltire award for housing in Straiton. I restored the rotundas on the Clyde, for which we received an architectural merit award. Our family built the art school in Edinburgh and the Andrew Melville hall by Sir James Stirling in St Andrews. I have worked on many other important buildings throughout the years.

I purchased the Rowallan estate and the old and new castles in 1990 and set about restoring the grounds and buildings, which had been seriously neglected for many years. After two public inquiries at which Historic Scotland vigorously opposed our plans, we have now reinstated to its former glory the new castle that Sir Robert Lorimer designed in 1902; it looks magnificent. We sought and gained listed building consent and planning permission to add a hotel and leisure complex at Rowallan and we are building Colin Montgomerie's first UK golf course in the grounds. The old castle sits in the middle of the estate. It is picturesque and is the jewel in the crown of Rowallan's 600 acres.

When I was negotiating to purchase the estate, which included the old castle, I approached Historic Scotland through its then director Mr MacKenzie, with whom I had dealt previously and who knew my technical background, to ascertain whether we could use and restore the castle. At that time, Historic Scotland appeared to be delighted and we agreed in writing the basic format of how the building should come out of guardianship and be repaired and conserved—the letters have been exhibited here. The building was not scheduled at that time.

After Mr MacKenzie retired, there was a sea change in the view of his successors. The old castle was scheduled in 1994 and by 1997 there was a clear view from Historic Scotland that there should be no restoration and use other than by the agency itself. I was told that there would be no point in submitting detailed plans until a decision was made on future use. Nothing much happened, so in an attempt to unlock the bureaucratic

quagmire I applied for change of use from the council, which was unanimously approved. However, because the building was scheduled, the application was referred to the Scottish ministers for determination. In reality, that meant that the application was referred to Historic Scotland, because the castle is A-listed. I simultaneously applied for scheduled monument consent to carry out works on the old castle and the whole matter went to a full second public inquiry. Historic Scotland rallied a determined counter-challenge and although I had been told not to go into too much detail until a decision on use was determined, that was exactly the area in which we were found wanting. The reporter said that there was insufficient detail on how the castle might be used to enable her to reach a final view.

As a consequence, my new team—Simpson and Brown—and I have carried out a comprehensive review and have delivered to Historic Scotland a full conservation plan, detailed drawings and a second application for scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979. The documents have been lodged with Historic Scotland since August, but there was no response other than the comment that no determination would be forthcoming in the near future. However, the application has now come to the agency's notice and it has agreed to come and see us on 7 February. Unfortunately, the 1979 act imposes no time limits on planning applications, as is the case in ordinary applications.

I want to be able to use the building as accommodation, as part of the overall scheme, for the benefit of the entire project at Rowallan. It would be an invaluable addition to the attractiveness and viability of the master plan. Moreover, at no cost to the taxpayer, there would be proper managed public access for the first time in 57 years—the time during which the matter has been in Historic Scotland's hands.

Since I gained planning permission and listed building consent for development of the golf course, hotel and other accommodation and for the renovation of the access road, Historic Scotland has suddenly announced that it would open the old castle to the public, despite there being no facilities whatever and the building not being in a safe condition. If anyone were injured, I would be at risk, because the castle is my property.

Historic Scotland appears to be acting as though it were blind to my wishes and those of the local authority, the public and everyone who would derive enjoyment from the development. The agency has taken no cognisance of the wishes of the local community, which were voiced through the community council, or of the local authority,

which has consistently backed our proposals. We are carrying all the commercial risk and I am offering not only to make beneficial use of the building but to bring it into useable condition, under the supervision of Historic Scotland, while conserving and respecting its enormously important historical heritage. It is essential that I and the agency work together: we both have skills, but I have the resources that have obviously been lacking in the past 60 years or so.

The potential for tourism and employment at Rowallan is enormous. I plan to create at least 175 full-time jobs as the project develops. I am well on the way to achieving that and have signed contracts for management of the hotel and the golf and leisure facilities.

I ask members to consider my petition and the associated papers favourably and to enjoin the Executive to bring about a culture change in Historic Scotland, so that distinguished buildings that could be used beneficially may make a contribution to the vibrant contemporary Scottish economy. Thank you for listening to me.

The Convener: Thank you, Mr Campbell. I invite questions from members.

11:30

John Scott: Good morning and welcome. You spoke of a change of heart by Historic Scotland in 1997. What caused that change of heart?

Niall Campbell: There was simply a change of personnel.

John Scott: Is it accepted practice that a change of personnel can lead to a change of policy or a change to undertakings previously given?

Niall Campbell: It appears to be. We have exhibited letters showing that we had reached an agreement with Historic Scotland on a certain way forward. However, things gradually changed. Over a period of a few years, as other people became more interested in what we were doing, and after we had gained planning permission—which was the main thing—and had renovated the access, Historic Scotland suddenly wanted to retain guardianship of the castle.

John Scott: You spoke about being misled by Historic Scotland at the second public inquiry over the details required in your planning application. Would you care to speculate over whether that was deliberate?

Niall Campbell: Well, it was fairly deliberate—there is no question about that. Historic Scotland had sent us a full and detailed list of ways in which we could convert the building and I had asked about what we could do to bring it into our

guardianship. Work would be done while the building was still in the guardianship of Historic Scotland, but the guardianship would then be passed on. We would agree to a certain timescale on offering public access—which is obviously what we want to do with the whole estate. However, Historic Scotland then seemed to take a completely different view. It wanted to open the castle itself—we can see no other reason for the change of mind.

Jackie Baillie: I was fascinated to hear about this proposal and I am quite positive about it. It is unique in having support at all levels—including support from the local community and the local council. There will clearly be an economic benefit—and I say that as someone who represents an area encompassing Loch Lomond and a golf course that might perhaps rival yours.

I am also fascinated by your relationship with Historic Scotland. In the very helpful precognition from Mr Simpson, you raise two specific points that illustrate the problems that you have encountered. I will also consider those points in a wider context. The first point was about the guardianship of the monument and the opportunity for ministers to revoke guardianship so that the future development of the castle would lie in your hands. Have you made formal approaches directly to the minister concerned, rather than simply going through Historic Scotland?

Niall Campbell: Some time ago, I met Des Browne MP and the then Scottish Office minister, Calum MacDonald MP, but of course the matter was immediately referred to Historic Scotland, so we were going round in circles. Mr MacDonald is no longer there, but we have been entirely supported by our MSP, Margaret Jamieson, and by Des Browne.

Things have become bogged down and—I hate to say it—slightly personal. We cannot see another reason for Historic Scotland's position. We believe that we have offered everything we can to take the building out of the control of Historic Scotland but at the same time safeguard it. It is a wonderful and unique building and we feel that we have the energy to convert it. We have done massive amounts of research, through James Simpson, and have probably written the definitive description of the building. We have considered every stone.

The roof of the building is new and is almost a pastiche, which is a great shame. Much of what has been done in the building is wrong. To be fair to Historic Scotland, I know that its work practices have changed, but even recently things have not been quite right. James Simpson will probably mention that.

It is disappointing that we cannot bring the building into our guardianship. Historic Scotland expressed opposition to our plans at two local inquiries at which the council and the whole community expressed their support. Historic Scotland was the only one against the plans, and it has not been able to come on board. However, now that we have done a lot of work, it has been obvious that Historic Scotland is trying to jump on the bandwagon. It made an attempt to open the castle last year—I think that the castle opened half a dozen times.

Jackie Baillie: If guardianship were transferred back to you as the owners, what kind of public access would you ensure?

Niall Campbell: We have stated that we have opened the castle no more than half a dozen times in the past few years, but we would guarantee a minimum of 25 times. We want to bring it into full use for the local community. There is a massive amount of work that we could do. We could use it as a gallery or for local weddings.

Jackie Baillie: I see that you also raise the issue of scheduled monument consent. I was astonished to find out that you could go through all this trouble to make an application but there is no timescale for Historic Scotland to respond to you. Have I picked that up correctly?

Niall Campbell: Yes.

Jackie Baillie: That is incredible. Has Historic Scotland given you any indication that it is likely to respond soon?

Niall Campbell: Since this petition has come to the fore, we have heard that Historic Scotland will respond on 7 February. James Simpson told me that this morning.

Jackie Baillie: Excellent.

The Convener: Before I bring him in, I apologise to Mr Simpson. We appear to have got your name wrong on the name-plate in front of you. If you would like to make your contribution now, we will be happy to hear it.

James Simpson: The wrong son of Zebedee, convener.

I would like to refer to the two Historic Environment Advisory Council for Scotland reports, while declaring an interest that I am a member of HEACS. I was not a member of the council last year when one of its reports suggested that there should be a review of the legislation and another report suggested some future arrangements for properties in care. Both those reports were published and sent to the minister last year.

On guardianship, HEACS made the point that the estate is a fairly inconsistent collection of

buildings that have come to the state for various reasons at various times in history. It is natural and appropriate that many such estates—Melrose abbey, Tantallon Castle, the great ruins and standing stones and so on—should be maintained by the state. However, there is no particular reason why some of them, such as Rowallan Castle, which is a typical example, are in the state's care. It was serendipitous that that particular building was taken into care in the 1950s and there is no reason why it should be maintained by the state at the taxpayer's expense.

HEACS suggested that there should be a review and a formal acquisitions policy. Indeed, HEACS suggested that there might be a separate national collection body for the national monuments of Scotland or something like that for handling the properties in care portfolio, within or outwith Historic Scotland. It also suggested that there should be a disposals policy and that those properties that are in care that do not have to be, and that are capable of living and working to earn their keep or be enjoyed in other ways, should not be maintained at the state's expense in limbo, particularly without a high degree of public access. Rowallan Castle seems to me to be a typical example of such a property.

On the lack of any timetable for a response to applications for scheduled monument consent, HEACS has suggested that the legislation has come into being by a number of different routes over the years—the ancient monuments legislation came through the Ministry of Works and the listed building legislation came through the Scottish Office development department. Those are two separate strands of legislation that have been put together and sit slightly uncomfortably with each other. HEACS has suggested that there is a need for a review of the legislation. The fact that there is no timetable to require Historic Scotland to deal with scheduled monument consent applications is one of a number of less satisfactory aspects of the legislation.

Helen Eadie: I am interested in your precognition statement and the information that you have given us on the Historic Environment Advisory Council for Scotland, which is extremely enlightening. Will you expand on the proposal to have a national collection with an acquisitions policy? You quote the report by HEACS, which suggests that it might be appropriate to assess whether there are any properties

“whose future might be more appropriately secured outwith state care”

and that a disposals policy should be developed. That seems to be a worthwhile way of proceeding. Will you expand on what you said about a national collection? What has happened to the report? Is it

just sitting on a shelf gathering dust or has it gone somewhere? Will any follow-up work be done?

James Simpson: The Historic Environment Advisory Council's duty is to advise the Minister for Tourism, Culture and Sport. The report on properties in care and the report on a possible review of the legislation were sent to Patricia Ferguson at around the same time, in July last year. Both reports rest with the minister. We have received a letter and a preliminary reply from her, but not a formal or a detailed response.

The suggestion that properties in care might become a separate national collection could address the issue that some people consider to be a problem, which is that although Historic Scotland is formally required to obtain consent for whatever it wishes to do to its own monuments, it is sometimes claimed that in its treatment of applications for consent, proposals for its own more commercial monuments such as Edinburgh and Stirling castles and applications from outside people are not necessarily on a level playing field. A more formal separation between the role of managing the properties in care estate and the other protection function might be helpful.

It has been suggested that the new body might have a collections policy, whereby it would examine the internal logic of the collection of the properties in its care, decide whether there were any gaps in it that could be filled by bringing other properties into care and assess whether there were any properties that were in care almost by accident and which did not really have to continue to be nursed at the state's expense.

Such an idea was raised in the House of Lords during the passage through the Westminster Parliament of the Ancient Monuments and Archaeological Areas Act 1979. John Campbell QC, who is not able to be here today, has been advising Niall Campbell. By looking at *Hansard*, he extracted the information that the issue of disposal was raised in the House of Lords in 1979. In his advice note, he writes:

“the Government Minister, Baroness Stedman, explained that the Act contained a permissive mechanism for the termination of Guardianship ... She envisaged a process where an owner might be regarded as an enthusiastic, responsible individual who would want to look after his own monument. In that case, she said, the State would step back, and allow that to happen”.

We submit that Niall Campbell is such an enthusiastic, responsible owner who would like the state to step back, as Baroness Stedman proposed in 1979, so that he could take responsibility for his own monument. He would be subject to all the controls of the appropriate protection legislation—the listed building legislation or the scheduled monument legislation. That is where we are coming from.

Helen Eadie: That is helpful; thank you very much. We wish you both well. The petition is extremely worth while. Well done.

Ms White: As someone who usually actively seeks to get Historic Scotland to list a building—especially in Glasgow, where so many buildings have been demolished before they have been listed—I find it astonishing that when someone comes along who wants to improve a listed building, Historic Scotland acts in such an unhelpful way. I am fully supportive of the petition. Is Historic Scotland being obtuse in this instance? Is there a reason for its attitude?

11:45

Niall Campbell: I would hate to decry everybody in Historic Scotland, which has some really good people. There is probably just a view among the upper echelons of management about people such as me who come along and try to disrupt the properties that they manage. Perhaps they think that if there were fewer monuments around, they might not have a job—I do not know. We have found it difficult to deal with the agency. That is all I want to say on the matter.

John Scott: You said that much of the restoration work that was carried out during the past 50 years was not good quality, given current practice. Are you proposing to restore areas in which work was badly done?

Niall Campbell: Absolutely. As I said, James Simpson has completed a full conservation plan. We examined every available document, we got a terrific archaeologist to look at the castle and we discovered stuff. One cannot decry what was done in the past, because it is reasonable to expect that certain practices will have changed. However, I think that James Simpson would agree that even some of the more recent work has been below standard. A classic example is the door into the main salon, which was taken down and put back incorrectly—it is a metre out. It is almost a pastiche of what it should be. I am conscious that, in a lot of projects of this nature, guys come along and promise to restore a building and make it all-singing and all-dancing, only to be hoist by their own petard. However, I assure members that we have researched the matter thoroughly and know most things about it.

The sad thing about the old castle is that much of the damage was done at the start, when it was in a fairly ruinous state and many of the interiors had been ripped out. It was vital to get a roof on the castle, so that is what happened. We have got quite a lot of the interiors—indeed, we have offered them to Historic Scotland, but the agency does not want them because it wants to keep the castle as it is, which is a great shame.

John Scott: Thank you. I wish you every success in a project that would be of huge benefit to the whole of Ayrshire.

The Convener: We are joined by Margaret Jamieson, who is the local member and has an interest in the matter. Do you want to add anything?

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Yes. I want to ensure that colleagues have a broad understanding of the situation. I have worked with Niall Campbell since 1999 in trying to broker a passage—I think that that is the best way of describing what we have been doing—between what he wants to do and what Historic Scotland thinks is its duty. I am concerned that the approach that Historic Scotland understands to be its duty to adopt fails to meet the needs of the community that I serve and the local community.

The previous owner gifted Rowallan old castle in 1950. Before that, the castle was accessible to residents of Kilmaurs and Fenwick, but after 1950 individuals were not able to access the estate or the old castle. It is only through the good offices of Niall Campbell that I have been able to gain access to the estate, although I was born and brought up in the area. I will flesh that out a wee bit: even residents of the area who were students at the Glasgow School of Art and who asked Historic Scotland for access were denied access—that includes a member of the Scottish Cabinet. Everyone has been treated in the same way—I think that the person whom I mentioned is still patiently waiting to be legitimately allowed access.

We managed to secure a rapport with the two local community councils, which felt distanced from Historic Scotland. They were as concerned as I was that no conservation plan had ever been drawn up by Historic Scotland and that there was no specific budget for the castle. For many years, not a penny of public funding was spent on the castle.

I have real concerns. It does not serve the public purse to keep the castle in the guardianship of Historic Scotland. I do not think that it has demonstrated best value in its actions in the past or present. The results of what it has done thus far are questionable. I am not an expert, but I listen to the experts. Historic Scotland is missing the wonderful employment opportunities that would be available for my constituents, in addition to educational and sporting opportunities. We are in close proximity to Prestwick airport in John Scott's constituency. There could be tourism benefits for all of us in Ayrshire. In fact, I say to Jackie Baillie that they could be spread more widely in the west of Scotland and could include Loch Lomond. However, Historic Scotland seems unable to take the blinkers off and see the opportunity that exists

for us all. It is a crying shame that there is such a facility but Niall Campbell is denied the opportunity to restore it and we, the public, are denied the opportunity to access it.

The Convener: Thanks. Before I come to members, I will make my own observations. Having listened to what has been said by the petitioners this morning, I am concerned by Historic Scotland's position as both the manager and the protector of the castle. It seems necessary to rectify such a situation when it creates the circumstances under which a developer finds itself talking to Historic Scotland about a proposal and having to convince Historic Scotland of its merits because Historic Scotland has an eye on both sides of the argument. There must be some disaggregation of that role. I would like to know what the Executive wants to do to address such concerns. I would be interested to know what other members think we should do with the petition.

Helen Eadie: I agree whole-heartedly with the convener. This is a first-class petition. For me and people like me throughout Scotland who are really keen on historic buildings, it is good that the petitioners have brought the matter to our attention. I suggest that we agree with the convener's proposal but that we also seek views on the petition from Historic Scotland, the Royal Commission on the Ancient and Historical Monuments of Scotland, the Royal Town Planning Institute and East Ayrshire Council. As usual, we should send a copy of the *Official Report* of this morning's discussion to those organisations. That would be helpful. I congratulate the petitioners.

Jackie Baillie: I do not dispute any of that—those suggestions are valid. I highlight two points in particular that we hope that the Executive and the minister, rather than Historic Scotland, will take on board. The first is the point about transferring guardianship. Secondly, I do not know of any public agency that has unlimited deadlines in respect of applications. When will the scheduled monument consent application be dealt with?

Ms White: I agree with all that has been said by Helen Eadie and Jackie Baillie. I find two points that Margaret Jamieson raised very concerning. On the fact that no money has been spent on the castle, can we ask Historic Scotland what conservation plans it has for the area and what its budget is for the castle?

The Convener: Those are valid questions. We can get specific information on those issues.

I concur with all my colleagues. This is a worthwhile and interesting petition. I thank you very much for bringing it forward and, personally, I wish you good luck with the proposal. Everyone to whom I have spoken has suggested to me that

your proposal is the best way forward to protect the building itself and to enhance the local community which, as I understood it, is what Historic Scotland is supposed to be about. Obviously, when we receive all the responses from the organisations to which we have written, we will let you see them and you can comment on them.

Does James Simpson wish to add something?

James Simpson: May I leave a copy of the conservation plan with the committee? I also have copies of the two relevant HEACS reports with recommendations on whether there is a need to review heritage protection legislation and the criteria that should be used to assess whether a property should be in state care. I presume that those are in the Parliament's library, but if it would be helpful I am happy to leave copies.

The Convener: If you leave those documents with the clerk, we will be able to access them.

John Scott: Should we also invite the Executive to comment on whether, in light of the two reports, it will review the legislation or consider doing so in the future?

The Convener: We can certainly include that in our letter to the Executive. Obviously we will let the petitioners see any response that we receive.

Bus Services (Funding) (PE1027)

The Convener: Our next new petition is PE1027 by Kristina Woolnough, on behalf of Blackhall community association. The petition calls on the Scottish Parliament to urge the Scottish Executive, in the interests of social inclusion, to increase public funding for bus services, particularly in communities where such services are already limited, and to give an assurance that, if bus routes or timetables are to be axed or changed, members of the community are properly consulted. Before it was lodged formally, the petition was hosted on the e-petition system where, between 2 November 2006 and 15 January 2007, it gathered 206 signatures. A further 278 signatures were also submitted in hard copy.

I invite Margaret Smith to comment on the petition before the committee considers how to address it.

Margaret Smith (Edinburgh West) (LD): I am here this morning to support the petition, partly because I want to applaud the dogged attempts of the Blackhall community association to get certain bus services, particularly the number 13 bus service, restored in the off-peak period and partly because the issues raised in the petition are important not only for the city of Edinburgh but for the whole country. Indeed, I have no doubt that all

committee members could cite similar examples of services being withdrawn.

The withdrawal of the local bus service that inspired the petition is—the City of Edinburgh Council would say—a result of costs. For example, because of congestion, the timetable would have to be extended to the extent that another bus would be needed to keep the service going, which would make the costs prohibitive. However, at a time when the council and the Executive are, quite rightly, encouraging people to use buses—the Scottish Executive did very good work in introducing free bus travel for older people—the petition highlights one example of an off-peak bus service that has been completely withdrawn from older people. That is effectively a form of social exclusion.

As I have discovered, just because an area is seen as affluent—Blackhall is seen as one of the most affluent areas in the country—that does not mean that the people who live there are affluent when it comes to access to transport. As I said in a recent debate on this subject, they might well be transport poor. For example, when older people—mainly women—are widowed, they lose not only their husband or partner but their taxi service. After all, the women concerned come from a particular generation that never learned to drive, and when they are widowed their only access to transport is through the public transport system.

12:00

Although the subject of petition PE1027 impacts particularly on older people, there is also an impact on school children. Bus services should not be such that children can get to school in the morning, but not back home again at the end of the school day. The lack of bus services also has an impact on people's ability to go about their business, accessing services such as medical centres and so on.

I look forward to hearing committee members' views and whether they agree to undertake further work on the subject. The question is one of how communities can be involved, proactively and properly, in discussions on bus services that have a massive impact on their ability to access schools, hospitals and other services. I agree with the petitioners on the need for more time when bus services are being changed or withdrawn. That would allow communities a proper chance to be consulted, to set out the impact of the changes, including the impact on access to services, and to say what the changes mean to them.

The petition raises another point that is worthy of action by the committee. I refer to the useful suggestion of putting in place a right of appeal to the traffic commissioner for Scotland or Transport

Scotland. The circumstances in which an appeal can be made may have to be drawn quite narrowly—for example, it could apply only to cases that involve access to health services or schools. We would need to ensure that an appeal would not be available in every single withdrawal of a bus service in Scotland.

We are talking about a social exclusion/inclusion issue that can affect any community in Scotland—rural or urban, poor or rich. There is a real need for the Parliament to ensure that public transport is available to everybody. We also need to do whatever we can do to assist the planet in the fight against climate change. We should be helping people to go about their lives, access the services and shops that they need and which are of use to them and socialise with friends on a day-to-day or week-to-week basis.

Helen Eadie: Petition PE1027 is important. I am sure that bus transport issues have been raised with every member present, particularly at meetings at which we interact with members of the community—certainly, I have heard those issues raised. Margaret Smith put the case for the petition particularly well.

On reading the committee papers, I was especially concerned to note that the Executive made no specific mention of transport in the six objectives and 10 targets that comprise its social inclusion strategy, closing the opportunity gap. We are always anxious to ensure that the Executive takes a matrix approach—we do not want departments to work in silos. I was therefore disappointed to read that—I would have expected transport to be up there in bold lights. Margaret Smith made the important point that older people in particular need to access hospital services at off-peak times.

The information that we have on the subject is plentiful. There have been some important members' business debates, such as those brought by Pauline McNeill and Colin Fox, and parliamentary questions have been asked on the subject. I suggest that we seek the views of the Confederation of Passenger Transport UK, the Scottish Association for Public Transport, Bus Users UK, Lothian Buses, FirstBus and the Scottish Executive.

Margaret Smith made an important point when she said that there is no duty to consult the public on changes to services. I hope that such consultation will come about. It is one thing to have all the grants, but if grant support or assistance is to be given to local authorities, a duty ought to be imposed on them and on the bus companies to ensure that they go about making changes fairly.

Ms White: I agree with everything that Helen Eadie said. A couple of issues have been raised that are experienced in all cities. One issue that should be considered is the fact that under the legislation there is no duty to consult. Another issue is the fact that the Scottish Executive published a bus action plan in December 2006, which states that there should be improved communication with stakeholders. Has there been any feedback on the implementation of the plan by bus companies? I agree with Helen Eadie's recommendations, but we should raise those two issues specifically in our letter to the Executive.

Jackie Baillie: I have no problem with the recommendations or with the broad thrust of the petition. However, I am curious. Although the petition refers to meetings with the City of Edinburgh Council, the regional transport partnerships have a key role, particularly in relation to providing subsidy for services. Given Margaret Smith's knowledge of the situation, does she know whether meetings have taken place with the regional transport partnership? The aims and objectives of the bus action plan specifically refer to bus forums being formed in each local authority area, so the obvious question is whether there is such a forum for Edinburgh.

Margaret Smith: I am not aware of exactly what the campaigners have done and to whom they have spoken. Blackhall community association has taken forward the campaign on the bus route in question, and other people are campaigning on the matter in the city. It may well be that some people in the wider bring back our buses campaign have talked to the south-east Scotland transport partnership, but I am not aware that they have done so and I do not believe that they have. I am also not aware of any bus forum in Edinburgh.

The campaigners have taken the argument to the council on several occasions. The council has not thrown out their case completely, but it has said that it would need further information. Obviously, the council is just about to enter its budget round. All the political groups in the City of Edinburgh Council are now well aware of the issues that affect their constituents across the city in relation to buses. I hope that they will all take those issues into account when budgets are decided. I do not think that the matter has gone beyond that. The issue that affects particular routes in the city is still being seen as one that may be solved.

The petitioners want not only to highlight an example but, in doing so, to raise issues that affect us all—they are quite likely to affect other members' constituents as well as mine. They want to raise wider issues about how we ensure that the services that people need are maintained and that proper consultation takes place if services are to

be changed. Some of the wider issues are about more than what is going on in Edinburgh.

Jackie Baillie: I understood that, and I hope I made it clear at the start of my comments that I agree with the broad thrust of the petition. By way of offering helpful advice, I point out that when a similar situation arose on my patch I went to the regional transport partnership, and that bus service is now back on. I am trying to be helpful.

Margaret Smith: I am always happy to take advice from Ms Baillie. I am currently quite hopeful—I cannot be any more than that—that the campaigners have put their argument very well to the council. Bearing in mind the fact that budgets will be set on, I believe, 8 February, I am holding fire—there are other people who may be subjected to full arguments about the matter—until I see what the council has done in response to campaigning by people from Blackhall and from around the city and to committee reports produced within the council as a result of the campaigns. The campaigns have put the matter back into the melting pot as an issue to be decided on when budgets are set. Once we have the council's response, we will be in a better position to see whether we need to take the issue involving specific routes to a regional level or elsewhere.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): When I look out on the streets of Edinburgh, I imagine that there is an abundance of buses, because I see them nose to tail along Princes Street and elsewhere in the city centre. However, I accept that a problem exists out on the periphery. In my area, bus services are a constant problem. My mailbag is full of complaints from people who decry them.

Margaret Smith said that people are not consulted, which is regrettable. Bus operators have a legal duty to give the traffic commissioner something like six weeks' notice that they are implementing or withdrawing a route. Is it suggested that the local authority should be involved at that stage, so that it is aware of proposed cuts in services in peripheral areas of a city or elsewhere? How will the public know of a proposed cut before they go out one morning to find that a bus is not running?

Margaret Smith: John Farquhar Munro gets to the nub of the issue. If bus companies wish to change or cut services, they must take particular steps. Councils, the traffic commissioner and others are involved.

I will give one other recent example from my constituency that involved the need to close a road. The council was well involved in that and lots of people were told that a road closure was in the offing, although the public were given only two weeks' notice of the closure. A direct consequence

of that road closure is that a direct bus service no longer goes from Kirkliston village in my constituency to St John's hospital. I would have thought that, in advance of that, a proper consultation was needed over several months to find out how people would cope with the situation and how it would impact on some people. Such a consultation should have involved the health board, too. Consideration needs to be given to the consultation mechanisms that are in place when people take important steps that will have a major impact on communities.

Can I pick up one point—

The Convener: I do not want a question-and-answer session. We have had suggestions on how to progress the petition and we have had a good airing of the issues.

Margaret Smith: That is fine.

The Convener: John Scott will speak next, unless John Farquhar Munro has another point to make. Margaret Smith is not here to be questioned or to give evidence; she came to support the petition. We are not here to quiz her on the whys and wherefores of buses in the Lothian area or in Edinburgh.

John Farquhar Munro: Margaret Smith has made a good case. Anybody who listened to her presentation would be convinced that an argument exists. My question is how we involve the public so that they are aware of proposed cuts by bus companies. That is a big problem. Bus companies are required to advise the traffic commissioner 42 days in advance, so I suggest that some arrangement should be put in place also to advise local authorities, after which local authorities can advise the public.

The Convener: You are right. That is where local members of regional transport partnerships come in.

John Scott: I planned to talk about that. I thought that local councillors were members of regional transport partnerships. Margaret Smith spoke about a democratic deficit. I would have thought that those councillors would make the case for services.

How many people are affected by the loss of the service in Blackhall? What is the ballpark figure? Is it a couple of hundred or 20?

Margaret Smith: The figure is probably several hundred. As the change had a knock-on effect in relation to the removal of a bus service in a neighbouring area, several thousand people have been affected in the past year, one way or another. Certainly, in the Blackhall area, several hundred people have been affected, and it is difficult for them to walk to the next bus stop. People at the school are also affected. If we

included all the children who attend the school, another several hundred people would be affected. Most of them are probably not affected by the loss of the bus service in the afternoon, but some of them are.

The Convener: We have heard suggestions on how to progress the petition. Are members happy with that?

Members indicated agreement.

The Convener: We will send the petitioners the responses and give them the opportunity to comment. I thank Margaret Smith for her contribution.

12:15

Independence Day Public Holiday (PE1029)

The Convener: Our next petition is PE1029 from John Black, on behalf of the Scottish Jacobite Party. Before being formally lodged, the petition was hosted on the e-petition system where, between 24 October 2006 and 8 January 2007, it gathered 14 signatures. The petition calls on the Parliament to debate issues around freedom and independence before the election to inform the views of the electorate and to consider and debate whether 4 May 2007 should be declared a public holiday to be known as independence day.

Ms White: As someone who is pushing for independence, I would prefer Scotland to have independence before we declared an independence day. I thank Mr Black and others for submitting the petition, but I agree with some of the comments that have been made about the petition on the e-petition system. I suggest that we close petition PE1029. The public and others would be better served if the issue were to be raised in a general election campaign.

Jackie Baillie: On this occasion, Sandra White is absolutely right. Although the petition is very interesting, I will share with members—and thereby put on the record—exactly what the Scottish Jacobite Party is about. It proposes to move the Scottish-English border south, to run from Carnforth on the west coast of Lancashire to Flamborough Head on the east coast of Yorkshire. In so doing, Scotland would gain Carlisle, Durham, Sunderland, Teesside and Tyneside. I wonder what people in those places would say about that. Even more interestingly, Newcastle United Football Club, Sunderland AFC and Middlesbrough Football Club would joint the Scottish Premier League, which would—of course—be nationalised. The petition is fascinating, but we should move on.

The Convener: I propose that we close petition PE1029. Is that agreed?

Members *indicated agreement.*

Margo MacDonald (Lothians) (Ind): Spoilsports.

Human Rights Abuses (China) (PE1030)

The Convener: Our next petition is PE1030, by Owain Robertson. The petition calls on the Scottish Parliament to support an investigation into Chinese human rights abuses, such as those that are allegedly committed against Tibetan refugees, and to support a boycott of the 2008 Olympics in Beijing. Before being formally lodged, the petition was hosted on the e-petition system where, between 3 November 2006 and 22 January 2007, it gathered 80 signatures.

On the face of it, petition PE1030 appears to advocate a boycott of the 2008 Beijing Olympics because of alleged human rights abuses against Tibetan refugees. In the supporting text, the petitioner raises two principal issues surrounding alleged human rights abuse in China: the treatment of Tibetan refugees and forced evictions to make space for the Olympic village.

Helen Eadie: Obviously, the petition is on a matter that is reserved to Westminster. Given that the petitioner feels strongly on the subject, it would be appropriate to refer him to his Westminster MP. The matter should go before Westminster. I suggest that we close petition PE1030.

Ms White: I have read the petition and have also been active in asking questions on the issues involved. China's human rights abuses are absolutely appalling. Even the Scottish Parliament has commented on the matter, as have Westminster and the European Union. I am aware of the reserved nature of the issues that the petition raises, but the Scottish Parliament should be concerned that the Executive has a strategy of stronger engagement with China. Jack McConnell is actively involved in the strategy: he has visited China and has encouraged people from China to come to Scotland—he is active in developing the partnership.

When he was in China, Jack McConnell raised the issue of human rights, for which I commend him. It would be a wasted opportunity for the Parliament and Executive if we were to close the petition. After all, given the Executive's strategy, Jack McConnell—or whoever will be First Minister after the election—can continue to raise human rights issues in China, which could go some way towards stopping the abuses that are taking place. People are being murdered. That is an absolute disgrace—

The Convener: If you do not want us to close the petition, what do you want us to do with it?

Ms White: I would like to send it to the Executive and to the First Minister, asking for his comments on it. He has visited China under the strategy. I would even advise the petitioner to take the petition to Europe, from where a stronger case could be made. However, as we are involved, I would like to have Jack McConnell's comments on the matter.

Jackie Baillie: I do not want to take issue with members over this, but I am conscious that we are not talking about sending the petition to the one place that has responsibility for the issue—Westminster. Although I am always engaged with the power of the Public Petitions Committee, my view is that simply keeping the petition open will not effect the kind of change that we all want. I have no problem with our sending the petition to the Executive and the First Minister for their information, but I think that we should also send it to the appropriate committee at Westminster. We should close the petition, recognising that dealing with the issue is wider than simply keeping a petition open.

Helen Eadie: I agree.

The Convener: I support that. We can write to the First Minister, letting him know about the petition and all the information that it contains, and he can use that in any further discussions that he has. If we send the petition to Westminster, the MPs there can also use the information that it contains. I do not know what would be the purpose of our keeping the petition open. If information came back to us, what would we do with it?

Ms White: Basically, the reason that I put forward for keeping the petition open is that I want to find out exactly what the Executive and the First Minister are doing through the strategy. That is where the petition links to the Scottish Parliament. I do not want to cause any disruption in the committee, but I sincerely care about what is happening in China—as Jackie Baillie says, we all do. I am trying to think of the best way in which to get information, not for us but for the petitioner. Would the petitioner get an answer back from the First Minister if we wrote to him and closed the petition? I am looking for a way to get information—that is what worries me.

Helen Eadie: It is important for the petitioner to get answers, but I feel strongly that the petition raises questions to which the Westminster Parliament is there to provide us with answers. No one is denying that the issue is important; we are simply saying that, if people want something changed, they should go where the change can be proposed most effectively. I therefore strongly support the view that has been expressed by the

convener and Jackie Baillie that we should send the petition to Westminster. Committees at Westminster have a lot of power. We should ask specifically for the Westminster Parliament to engage directly with the petitioner on the matter.

The Convener: I understand what members are saying. If the First Minister is engaged on the issue, the petitioner should get some information. However, I do not want to use the committee to raise people's hopes about things that the committee cannot address. There is absolutely nothing that the committee can do about the petition. We cannot get involved in organising a boycott of the 2008 Olympics. We must focus on what the petition asks us to do. It states clearly what it expects us to do, and we cannot do that. Therefore, it would be wrong to raise the petitioner's hopes that the committee can do what the petition asks for.

There is a wider issue concerning human rights abuses and the treatment of refugees and others in China. We cannot address that here, either. We can pass the petition to people who might be able to do something about it, for their information, but, beyond that, there is nothing that the committee can do with the petition. Therefore, keeping it open would serve no purpose. If information came back to us, we would still not be able to do anything with it except pass it on to the petitioner. If we send the petition to the First Minister and to the relevant committee at Westminster, we can ask them to write back to the petitioner, which would be constructive. However, the Public Petitions Committee cannot do anything with the petition.

Ms White: I take on board what you say. The point that I am making is that the Scottish Parliament, the First Minister and MSPs are involved in creating a sustainable, stronger engagement with China. If you are saying that we should send the petition to the First Minister and the relevant committee at Westminster, asking that they send the petitioner information based on the questions that are asked in the petition, I will go along with that rather than cause a disruption in the committee. Are you saying that we will ask the First Minister to answer the questions that the petitioner has asked?

The Convener: That is exactly what I am suggesting that we do. I appreciate that you are trying to enable the committee to reach a consensus—that is what I want, too.

The committee always considers what a petitioner is asking for. In this case, the petitioner wants us to get involved in a boycott of the 2008 Olympics, which is an issue over which the Parliament has no authority and in which we cannot get involved. It would be wrong to raise the petitioner's hopes by suggesting that we can do something about the petition, when those of us

who are sitting here know that we cannot. It would be more honest of us to explain to the petitioner that we cannot do what he asks, but that we have written to the First Minister and to the Westminster committee that considers such issues, to ask them to tell the petitioner what they are doing about the matter. Is that okay?

Ms White: Okay.

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

Members indicated agreement.

Solicitors (PE1021)

The Convener: PE1021 was lodged by Bill Alexander and calls on the Scottish Parliament to investigate the availability of solicitors who are prepared to act against other solicitors in cases of negligence or inadequate service, the role of the Law Society of Scotland in such cases and the physical and financial impact of such cases on complainants.

Before it was formally lodged, the petition was hosted on the e-petition system, where it gathered 80 signatures between 3 November 2006 and 22 January 2007. The petitioner has provided additional information and the Law Society of Scotland has also provided information on the issue. I invite members' comments and suggestions.

Helen Eadie: The matter has concerned members throughout our time in the Parliament. It is clear that some progress has been made, but we need to clarify the current position. We should ask the Scottish Executive for an update on its scoping work on people who cannot get legal representation when cost is not the problem. We should also ask the Executive for an update on the implementation of sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, in relation to section 32 of the Solicitors (Scotland) Act 1980. That information would be helpful.

Margo MacDonald: I have raised that issue over the years. By now, we would have expected a commencement order on sections 25 to 29 of the 1990 act, given that equivalent provisions have been law in England since 1990. Recently, a freedom of information case went to appeal at the Court of Session and three judges ruled that information on the commencement of sections 25 to 29, such as interdepartmental papers, should be released. However, the Executive is resisting release. We are talking about a live issue.

I commend Bill Alexander, who is a serious man, for ensuring that the case went as far as the Court of Session. I certainly would not dismiss his petition.

The Convener: Far from it. I think that Helen Eadie was suggesting that we ask for more information. It is worth noting that at First Minister's question time on 25 January, in response to a question from you, I think—

Margo MacDonald: I have asked umpteen questions about the matter.

The Convener: The First Minister said that sections 25 to 29 of the 1990 act would come into force in April. I mention that because the issue relates to the petition and because I take on board what you are saying. Helen Eadie suggests that we take the matter forward by requesting more information about the scoping—

Margo MacDonald: I am being persistent, because no more than a couple of months ago the Minister for Justice said that it would happen in March—that has been the history of the issue.

The Convener: I take your point. Are members happy that we write to the Executive to request the information that Helen Eadie suggests we seek? The information would help Margo MacDonald in the longer term, too.

Members indicated agreement.

Bottled Water Contracts (PE1028)

12:30

The Convener: Let us go back to PE1028, which is by Sofiah MacLeod, on behalf of the Scottish Palestine Solidarity Campaign. It calls on the Scottish Parliament to urge the Scottish Executive and individual MSPs to cancel all contracts that they have with Eden Springs water company. Before being formally lodged, the petition was hosted on the e-petition system where, between 25 October and 31 December 2006, it gathered 884 signatures.

It is unfortunate that the petitioners have not come, because I was interested to know more about the petition. I lodged a parliamentary question on the issue because it had come up in other discussions. The company concerned is not in my constituency, but I know of it because it is in a neighbouring constituency. My question was about what involvement the company had. As I understand it, more than 200 people are employed at Eden Springs in Blantyre, and the water that the company uses is drawn entirely from springs in the Blantyre area.

Margo MacDonald: Springwells.

The Convener: Everyone knows the area well—Margo MacDonald will know it particularly well. The research that we have been able to obtain through the clerks indicates that any connection with the Golan heights is no more than the fact

that the area just up from Blantyre is called High Blantyre. Nothing appears to connect Eden Springs and Blantyre with the petition. Margo may have more information.

Margo MacDonald: There is a scheme in High Blantyre that used to be called Jerusalem because it was white and had flat roofs.

The Convener: That is right, but the council put in sloped roofs, and it is no longer called that.

The only connections that I can see are as spurious as Margo's. The company manufactures its product in Blantyre in Lanarkshire and sells it to a Scottish market. Although we must always be cognisant of what we can do here to address issues abroad, and in particular of how things can affect Palestine, I honestly do not see how cancelling a contract with a company that bottles and sells Scottish water to the Scottish Parliament could help. I would have loved to hear more information from the petitioners, but they are not here. I cannot see this as anything other than cutting off our nose to spite our face, although that is just my view from the paperwork that we have seen.

Jackie Baillie: There is some confusion, and I think that we should put some things on the record. The Scottish Parliament does not have a contract with Eden Springs, any subsidiary or any parent company—that is worth making clear.

I am conscious that there are complex legal relationships between different companies, and I do not pretend to understand them. However, I am clear that Eden Springs is registered in the United Kingdom, and I am equally clear that the water comes from Blantyre. I appreciate the degree of local knowledge that is on display today. I have never heard of Springwells, but I shall look at it with renewed interest.

The petition's basic premise is that the company is somehow exploiting water resources in the Golan heights, which is something that we would deprecate. However, it is clear that Blantyre is far away from the Golan heights. From the information given, my understanding is that there is an Israeli mineral water producer called Mayanot Eden, which is perhaps where the confusion arises. The Parliament would support action that dealt with the exploitation of valuable water resources in the Golan heights, but we have missed the target slightly in that Eden Springs seems to be entirely about Blantyre.

Helen Eadie: I agree with Jackie. I was going to mention one or two points, but she has covered them.

The Convener: Will we close the petition at that?

Members indicated agreement.

Current Petitions

Adults with Learning Difficulties (Provision of Services) (PE743)

**“The same as you? A review of services
for people with learning disabilities”
(Implementation) (PE822)**

**“The same as you? A review of services
for people with learning disabilities”
(Findings) (PE881)**

12:34

The Convener: We move now to current petitions, the first of which are PE743, PE822 and PE881.

Petition PE743 is by Madge Clark, on behalf of Murray Owen Carers Group. It calls on the Scottish Parliament to urge the Scottish Executive to review the implementation of “The same as you? A review of services for people with learning disabilities” to ensure that the needs of adults with learning disabilities who are still living at home and who are cared for by elderly parents are given the same level of support and community care opportunities as are given to hospital-discharged patients.

Petition PE822 is by Beatrice Gallie, and calls on the Scottish Parliament to urge the Scottish Executive to ensure that sufficient funding is made available to enable the implementation of “The same as you?” so that all people with learning disabilities have a choice of living at home like anyone else, with the support that they need to live independently and have control of their own lives.

Petition PE881 is by Rachel Cole and calls on the Scottish Parliament to urge the Scottish Executive to review the findings of “The same as you?” to ensure that people with profound and complex needs are properly provided for.

At its meeting on 3 May 2006, the committee agreed to seek the views of the cross-party group for learning disability and the petitioners. Those responses have now been received.

Linda Fabiani has joined us, because she has an interest in the issue. Do you want to comment on the petitions?

Linda Fabiani (Central Scotland) (SNP): I am happy to hear the views of committee members before I comment.

The Convener: Do committee members have any views? Perhaps Jackie Baillie will comment.

Jackie Baillie: Convener, I do not need a second invitation.

The cross-party group for learning disability spent quite a bit of time on the issue, which we welcomed, and came up with six priority recommendations that we want the Executive to take forward. The recommendations cover local area co-ordination, direct payments, personal life plans and, very specifically, the needs of people who live at home with older carers, which is the subject of petition PE743. Through their persistence and continued attendance at our committee meetings, the petitioners Madge Clark and Jeanette Kelly have brought about action on the issue. We have called for local authorities to report on progress, for the Minister for Health and Community Care to make a statement to Parliament and for a number of other things that I will not take up the committee’s time by repeating.

Suffice it to say, I believe that we should seek the Executive’s views on the response from the cross-party group and on Madge Clark’s response, which is given in annex C of our papers. On that basis, I suggest that we keep the petitions open and write to the Scottish Executive to ask what it will do now.

The Convener: Does Linda Fabiani wish to comment now?

Linda Fabiani: I am glad to hear that and I am delighted that the petitions will be kept open. This has been a long, drawn-out issue, but it is extremely important to many people. I am happy to hear the comments that have been made by Jackie Baillie in her capacity both as convener of the cross-party group and as a member of this committee. I urge other committee members to agree with her recommendation.

My only suggestion is that the letter to the Executive should, if possible, make specific reference to the need for housing choice. Adults with learning difficulties who live with elderly parents should have the same right as hospital-discharged patients to be housed on their own within communities, where that is felt to be the optimum solution in the circumstances. They should not be pushed to the end of housing waiting lists. We must avoid giving the perception that they are not quite as important as those who are discharged from institutions.

The Convener: Are members happy to agree to Jackie Baillie’s suggestion and to ensure that the Executive is made aware of the comments that have been made this morning?

Members indicated agreement.

The Convener: I thank Linda Fabiani for her attendance.

Linda Fabiani: Thank you very much.

Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 (PE767)

The Convener: Petition PE767, which is by Norman Dunning, on behalf of Enable, calls on the Scottish Parliament to urge the Scottish Executive to review the operation and effectiveness of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

At its meeting on 31 May 2006, the committee agreed to invite the views of the petitioner on the response that we received from the Minister for Justice. The petitioner's comments have now been received and circulated.

Helen Eadie: I do not think that we have fully concluded all the work that the Parliament could do on the petition. The petitioner clearly welcomes the fact that the minister will address one of his concerns by implementing a process for ensuring that the recommendations of fatal accident inquiries are recorded centrally. However, although that is a welcome development, the petitioner is concerned that the proposed process will still be passive, in the sense that it will be up to interested parties to follow through an inquiry's recommendations.

On the issue of good practice for public bodies, the petitioner is clearly concerned that the recommendations need to be taken forward. His point about the improved training that is being implemented for procurators fiscal who are involved in fatal accident inquiries is that the Parliament should find out what that training involves.

In the light of all that, and given that we can always do a bit more work on such an important topic, I suggest that we keep the petition open and that our legacy paper for our successor committee in the next parliamentary session should suggest that the issue be taken on board by the new committee and perhaps be referred to one of the justice committees.

Ms White: I agree with most of what Helen Eadie said. A number of people have approached me on the issue of fatal accident inquiries, although not in connection with the Enable petition. I am pleased with the minister's response, and I note Norman Dunning's comments.

However, I would like some clarification from the clerk on the issue of keeping the petition open or moving it to another committee. We could send the petition to one of the justice committees, with a recommendation that it look into the petitioner's request for an inquiry, or we could keep the petition here, thus keeping it open, but leave it in abeyance with a recommendation to our successor committee. What would be the difference in timescales? I assume that the petition

will eventually go to one of the justice committees anyway, so what is the difference between our sending it to a justice committee now and our keeping it here until the next session of Parliament?

David McGill (Clerk): The justice committees are not mandatory committees, whereas this committee is a mandatory committee. There is no guarantee that the justice committees will be re-established in their current guise after the election. If the Public Petitions Committee is minded to maintain the momentum that this petition has clearly built up, the safest thing to do would be to retain ownership of it just now. Immediately after the election, the new committee—which will definitely be established—will be in a position to refer the petition to whichever committee it thinks appropriate.

Ms White: I accept that advice and will therefore agree with Helen Eadie's recommendation.

The Convener: Are other members happy to accept Helen's recommendation?

Members indicated agreement.

NHS (Provision of Wheelchairs and Specialist Seating Services) (PE798)

The Convener: Our next petition is PE798, by Margaret Scott, which calls on the Scottish Parliament to urge the Scottish Executive to resolve the current critical problems in the provision of wheelchairs and specialist seating services in the national health service, both by providing an immediate increase in funding and by instigating a review which, in consultation with users, will address minimum standards, the scope of equipment provided and the delivery of services.

At its meeting on 14 June 2006, the committee agreed to seek an update from the Deputy Minister for Health and Community Care in relation to the Scottish Executive's response to the independent review of NHS wheelchair and seating services in Scotland. Responses have been received and circulated.

Helen Eadie: This is very sad, because the petitioner has died. We are all very sad about it, and the Deputy Minister for Health and Community Care has expressed his regret too. Margaret Scott made a major contribution to wheelchair provision. I remember going with some constituents to meet the deputy minister to discuss the issue, and I was pleased—as I am sure Mrs Scott would have been—to see the intense work that the Scottish Executive put into having a national conference and, more important, the various regional events that gave users and their carers an opportunity to make their views known. A wealth of work has

been done, and it is sad that Mrs Scott is not here to enjoy the results of her efforts. We should acknowledge those efforts and the changes that have followed on from them, but perhaps we should now close the petition.

Jackie Baillie: I, too, acknowledge the efforts of Margaret Scott and regret her death. What she did was superb. She initiated the review, which the Executive moved forward with, although we are now slightly out of date. My understanding is that the Executive published a response as recently as—I think—19 January.

Margo MacDonald: It did.

Jackie Baillie: I have a copy floating around my office, because I specifically asked for it, but I have not had time to digest it. I wonder whether, instead of closing the petition, we should see whether the Executive's response does everything that Margaret Scott wanted. It would be worth pursuing the detail a little further.

Margo MacDonald: I worked with Margaret Scott and the other petitioners.

The Convener: Yes, I remember that.

12:45

Margo MacDonald: I endorse what Jackie said, and I urge committee members to consider the Executive's response. The Executive has been excellent, but one or two of the petitioner's main arguments have not been addressed.

Committee members should have a copy of the letter I received from Liz Rowlett, who is the policy, information and parliamentary officer for the Scottish Disability Equality Forum. She told me that she had

"also copied this to the members of the Petitions Committee".

Her organisation is grateful to the Executive for the good things that it has done, but adds the big caveat—I will cut it short because of time—that the

"SDEF is disappointed that the response falls short of setting up a single, integrated service for wheelchair provision, the key recommendation of the report. We would caution that, while the creation of a project board and advisory group with representation from service users and carers is welcome, this should not delay the implementation of the principle improvements recommended."

I had a meeting with Andy Kerr—I think that it was last week. My feeling is that the whole issue may have fallen between two stools—or two funding years—as that would account for the comments on funding in the letter. The SDEF is concerned that improvements will have to be implemented without any new money. Before the committee moves to close petition PE798, I suggest that members address the outstanding questions, look again at the Executive report and

read the letter. I will ensure that the committee has a copy of the letter.

The Convener: If other members agree with what Jackie Baillie said, we will not close the petition. All the information is useful. If we keep the petition open, we can examine the review and assess the outcomes. We can also put petition PE798 on the agenda for a future meeting, when all the information can be drawn together. That will give everyone the opportunity to consider it again.

Margo MacDonald: That is good. I do not want to leave you with the thought that people are ginning—they are not. They are absolutely delighted with the response, including, of course, this committee's response.

The Convener: You are always welcome here, Margo.

We will keep petition PE798 open, as that will allow us to consider both the review and the information that Margo has brought before us. It will also allow further discussion to take place.

Margo MacDonald: I will make sure that you get the information.

The Convener: Thank you.

Mental Health Services (Deaf and Deaf-blind People) (PE808)

The Convener: Our next petition is PE808, by Lilian Lawson, on behalf of the Scottish Council on Deafness, which calls on the Scottish Parliament to urge the Scottish Executive to develop and establish a specialist in-patient mental health unit for deaf and deaf-blind people and to provide resources, such as training, for mainstream psychiatric services in the community to make them more accessible to deaf and deaf-blind people in Scotland.

At its meeting on 14 June 2006, the committee agreed to seek the views of the Deputy Minister for Health and Community Care on the response from the petitioner and on submissions from the cross-party group on mental health and the Royal College of Psychiatrists. The response from the minister has now been received and circulated to members.

Ms White: I note that Lilian Lawson is in the public seating. I have read the response. If we agree to seek the petitioner's comments on the response, I look forward to reading what Lilian and her group have to say. There is some positive stuff in the response, but the Executive does not seem to have addressed all the points that we raised. For example, I am still interested to find out about NHS Greater Glasgow and Clyde's involvement in the new multi-agency team.

Helen Eadie: I agree.

The Convener: So are we all agreed to keep petition PE808 open and to ask the petitioner for her comments on the response?

Members *indicated agreement.*

Small-scale Energy Generation Equipment (PE837)

Renewable Energy Technology (Installation) (PE969)

The Convener: Our next petition is PE837 by Neil Hollow, which calls on the Scottish Parliament to urge the Scottish Executive to actively use its influence to ensure that, by 2020, all buildings in Scotland, including domestic, commercial and government buildings, are fitted with at least one type of small-scale energy generation equipment; that such equipment is brought within permitted development rights; and that no charges for connecting to the grid are made.

We are also considering petition PE969, by Alan Kennedy, which calls on the Scottish Parliament to urge the Scottish Executive to promote and encourage the development and installation of micropower renewable energy technology in business and domestic premises and to set targets for doing so. At its meeting on 14 June 2006, the committee agreed to link petitions PE837 and PE969, and to seek an update from the Scottish Executive on the promotion of micropower renewable energy technology. The response has been received and circulated to members.

Helen Eadie: I note that the petitioner behind petition PE969 welcomes the input and information that he has received but regrets the slow pace of progress. Given that the Executive has indicated that the energy action plan that is mentioned in its letter of 15 September 2006 has been delayed and will not be published before February, it might be best for the petition to be considered further by our successor committee in the Parliament's third session, by which time the petitioner will have been able to comment on the action plan.

Ms White: I concur.

I am sorry, but I must leave, because I have a meeting at 1 o'clock.

The Convener: Are members happy that we keep the petition open and include it in our legacy paper?

Members *indicated agreement.*

Scottish Culture (Study of History, Literature and Language) (PE910)

The Convener: Our next petition is petition PE910, which was submitted by Dr Donald Smith on behalf of the literature forum for Scotland. It calls on the Scottish Parliament to urge the Scottish Executive to conduct an urgent review of the study of Scottish history, literature and languages at primary, secondary and tertiary levels, to ensure that all citizens of Scotland have the opportunity to understand those key aspects of their society and culture. At its meeting on 14 June, the committee agreed to seek the petitioner's views on the responses that it had received from various educational and cultural bodies and the Scottish Executive. We have now heard from the petitioner.

Jackie Baillie: On the basis that the petitioner appears to be perfectly happy, I suggest that we close our consideration of the petition.

The Convener: Do members agree?

Members *indicated agreement.*

European Drinking Water Directive (PE929)

The Convener: Petition PE929, which was submitted by George Packwood, calls on the Scottish Parliament to review the implementation of the European Union drinking water directive 98/83/EC as it relates to the replacement of lead piping in public and private sector domestic properties, to ensure that drinking water in Scotland has zero lead content. At its meeting on 14 June, the committee agreed to seek the views of the petitioner on the responses that we had received from various organisations, including the Scottish Executive. His response has been circulated and members should have a copy of a further letter, which the committee received this week. How should we progress our consideration of the petition? Should we write back to George Packwood?

Jackie Baillie: The petitioner expresses the concern that the issue that he raised has not been properly addressed. Perhaps we could write to the Convention of Scottish Local Authorities, which has not yet replied to us, and to Scottish Water to ask them specifically about the replacement of lead piping rather than just water quality. The distinction that the petitioner makes might be a moot point, but it is worth pursuing.

The Convener: If we get those responses, we can contact the petitioner again. Is that agreed?

Members *indicated agreement.*

Housing (Right to Buy) (PE950)

The Convener: Petition PE950, by Andrew Doak, calls on the Scottish Parliament to urge the Scottish Executive to review the Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc) Order 2002 to ensure that tenants retain pre-existing right-to-buy terms if they are compelled to take up a new tenancy as a result of being the victims of antisocial behaviour. At its meeting on 3 May 2006, the committee agreed to seek views on the petition from COSLA, Communities Scotland, the Chartered Institute of Housing in Scotland, the Scottish Tenants Organisation, Victim Support Scotland and the Scottish Executive, and to invite the petitioner's views on those responses once we received them. I seek members' views.

Helen Eadie: It appears that there is a clear legal remedy to the situation in which the petitioner finds himself, which has been set out in the Executive's recent guidance. The petition concerns an issue that is really a matter for the local authority concerned, so perhaps we should close our consideration of the petition. Part of the problem that the petitioner raised seems to have been tackled.

The Convener: Do members agree with that suggestion?

Members indicated agreement.

The Convener: Before we move into private session, there are two matters that I want to comment on. It might simply be that my memory is failing, but when we discussed the petition on euthanasia—petition PE1031—I do not remember agreeing to send any responses that we receive to the petitioners for their consideration. To be on the safe side, I seek the committee's agreement to do that.

Members indicated agreement.

The Convener: It is better to be safe than sorry.

I point out to members that after today we will consider no more new petitions before the election. At our remaining meetings we will consider only those petitions that are already in the system, so we might be able to reduce the length of meetings or to condense the number of meetings—perhaps we could have one meeting per month. I will speak to the clerks about that.

12:55

Meeting continued in private until 12:59.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 9 February 2007

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers