PUBLIC PETITIONS COMMITTEE

Tuesday 15 January 2008

Session 3

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1st Meeting 2008, Session 3

CONVENER

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bashir Ahmad (Glasgow) (SNP)
*Claire Baker (Mid Scotland and Fife) (Lab)
Angela Constance (Livingston) (SNP)
*Nigel Don (North East Scotland) (SNP)
*Rhoda Grant (Highlands and Islands) (Lab)
*Robin Harper (Lothians) (Green)
*Nanette Milne (North East Scotland) (Con)

COMMITTEE SUBSTITUTES

Jim Hume (South of Scotland) (LD)
Marilyn Livingstone (Kirkcaldy) (Lab)
John Scott (Ayr) (Con)
*John Wilson (Central Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Bill Butler (Glasgow Anniesland) (Lab)
Margaret Curran (Glasgow Baillieston) (Lab)
George Darroch
John Grant (Community Councils of Highland Perthshire)
Michael Gray
Eric Jones (Scottish Auto Cycle Union)
Norman McCandlish (Community Councils of Highland Perthshire)
Tina McGeever
Peter Peacock (Highlands and Islands) (Lab)
Bob Reid (Scottish Auto Cycle Union)
Karen Whitefield (Airdrie and Shotts) (Lab)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERK

Franck David

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 15 January 2008

[THE CONVENER *opened the meeting at 14:02*]

New Petitions

Ambulance Services (PE1099)

The Convener (Mr Frank McAveety): Good afternoon and welcome to the first meeting in 2008 of the Public Petitions Committee. I ask everyone to ensure, as always, that mobile phones and any other electronic devices are switched off. We have a standing apology from Angela Constance. However, we have with us her substitute John Wilson, who is doing so well that he might well wish to become permanent.

The first agenda item is consideration of new petitions. PE1099, from John Grant on behalf of the community councils of highland Perthshire, calls on the Parliament to urge the Scottish Government to monitor the provision of ambulance services such as those in the highland Perthshire area and to ensure that the Scottish Ambulance Service undertakes open and proper consultation with communities prior to any service changes to ensure that they always properly reflect the needs and safety of patients in the area.

I welcome to the committee John Grant and Norman McCandlish. As always with petitioners who wish to make an oral presentation on their petition, I will give you three minutes to add to the information contained in your written submission, which all committee members have read. After you make your opening statement, I will invite members to discuss the petition with you.

John Grant (Community Councils of Highland Perthshire): The petition reflects widespread dissatisfaction with the Scottish Ambulance Service's methods of consultation and a real fear that service provision is being severely compromised by a drive for efficiencies that is based more on a reaction to call times than on the desperate need in Scotland's rural communities. Over the past year, the liaison committee that was set up in our area to monitor the reduction in ambulance provision has raised both specific concerns based on individual incidents and general concerns based on public perception and genuine fears. In its standard reply, the Scottish Ambulance Service promises to investigate particular incidents and then bombards us with statistics showing that the average response time to a call-out in our area is within acceptable limits and that, given the demand, the provision is adequate.

In this statement, I will deliberately avoid highlighting cases in which ambulances in highland Perthshire have arrived extremely late or in which the provision has seemed inadequate. Every area in Scotland can produce such examples, and soundbite headlines are unhelpful. However, because of the defensive and reactive culture that seems to exist in the Scottish Ambulance Service, it refutes any criticism immediately and uses numbers as the principal weapon. We recognise that by its very nature the emergency service is always under scrutiny, but that kind of bunker mentality is getting in the way of a proper and sophisticated assessment of the various needs of rural communities in Scotland.

As members know, the Scottish Ambulance Service uses as a performance yardstick a response time of eight minutes. Of course, such a response time is unrealistic in rural areas. Perthshire, which is by no means the most remote area in Scotland, has many miles of country roads that wind through remote glens. We appreciate that there is operational flexibility that allows ambulances from adjoining areas to be deployed out of area where necessary. However, we want to bring to the committee's notice the fact that, instead of the Ambulance Service taking particular communities' special needs into account, service provision throughout rural Scotland is being eroded in the name of efficient response times.

The economy of highland Perthshire—and much of rural Scotland—depends on tourism; indeed, our population of around 10,000 living in an area of 300,000 hectares increases each week by 2,000 because of timeshare visitors and annually by 100,000 plus because of tourists. We should also remember that the notorious A9 runs through Perthshire and that the percentage of pensioners in our area is 10 per cent above the national average. We are sure that many other areas in Scotland could highlight similar special circumstances, but the Scottish Ambulance Service insists that such factors need not be taken into account. Instead, it sticks to its blizzard of statistics.

We have nothing but respect and admiration for the service's work and its staff's dedication. However, it has made it clear to us that the cuts in provision in highland Perthshire are driven by efficiency measures that, we believe, are as much the product of financial stringencies as they are an attempt at meeting the community's specific needs.

Our petition is a plea for an examination of the Scottish Ambulance Service's response to rural Scotland's specific requirements and a call for a

review of a management style that has allowed the service to become fixated on arbitrary response times instead of properly exploring the diverse needs of Scotland's rural communities. We ask the Scottish Government to examine the principles behind ambulance provision in rural areas to ensure that the primary factor is patient need and safety, not achieving fast reaction times or balancing the books.

The Convener: I open the discussion to members' questions.

Rhoda Grant (Highlands and Islands) (Lab): Are you concerned about the number of ambulances in the area or the length of response times if that number is cut? Could, for example, the air ambulance, which I believe is underused at the moment, not be used more to speed up response times in rural areas?

Norman McCandlish (Community Councils of Highland Perthshire): The air ambulance has occasionally been used in rural Perthshire, and it is a good facility that works. However, we are concerned more about the reduction in facilities, given the size of this area. We feel that we are being let down in that respect.

Rhoda Grant: What do you mean by "reduction in facilities"? Are you concerned about ambulance facilities rather than the service, or do you feel that there has been an impact on service?

Norman McCandlish: There has been, yes. We feel that response times are not particularly relevant in rural communities. We want the ambulance to get to an accident or incident as quickly as possible, but the fixation on response times does not help the communities. That, in conjunction with the reduction to one ambulance instead of two in rural Perthshire, is our concern.

Rhoda Grant: Does it not increase response time to have fewer ambulances? Will it not take even longer? I know that people in rural areas do not expect a response in six minutes, but does cutting the number of ambulances not increase the length of time that they have to wait?

Norman McCandlish: It does indeed. That is our worry. The air ambulance facility is good, but it comes from Glasgow. It is not the whole answer. I am in danger of using the word "minor". No ambulance call-out should be considered minor, but the number of incidents in highland Perthshire for which one might want to replace an ambulance with an air ambulance would flood the air ambulance service.

Nanette Milne (North East Scotland) (Con): Nowadays, it is a requirement that public bodies such as the health service consult communities before changes are made. What sort of consultation took place before the change was made and have the public been consulted since it was made?

Norman McCandlish: The Scottish Ambulance Service announced that it intended to make a reduction in service and the group of community councils elected to convene a meeting. Our local MSPs backed us on that. A number of meetings were held in the village halls and the SAS did not even turn up to two of them. To be fair, that was partly because the meetings were also concerned with the restructuring in which NHS 24 was established.

Eventually, we pinned down the SAS and had meetings with it. It announced the reduction that it wished to make and agreed to defer it for a year because of the volume of protest. Meanwhile, a liaison committee of community council members and other interested parties was set up. That proved to be an unsatisfactory system because, in the meetings that we had, we were bombarded by statistics that established to the SAS's satisfaction that the reaction times were not that bad, but which did nothing to dissipate our concerns.

Nanette Milne: What about since the change has taken place?

Norman McCandlish: Since the change has taken place, the liaison committee has continued in a monitoring function. However, all of us on the committee were against the change in provision and MSPs were against it. We find that the Scottish Ambulance Service has the problem that, occasionally—sometimes frequently, although not always—when NHS 24 calls out a doctor, the doctor refuses to come out and the service is left to pick up the call.

Our feeling is that the apparent consultation has been not a consultation, but a sham.

Nigel Don (North East Scotland) (SNP): Have you seen any evidence of an operating model? If I was trying to run such a service in a large area, I would have not only statistics but some kind of mathematical model to give me a clue about how long it would take to get from A to B—and C and D—and what fraction of the time the ambulance would be at A in the first place. I have no idea what that model should be—that is not really my point—but have you seen any evidence that the service uses such a model?

14:15

Norman McCandlish: Yes. The model that is used is fairly sophisticated. There is a central control system, so the service can employ a procedure whereby ambulances in adjoining areas move back and forth between areas as required. The system is flexible and sophisticated, but it is predicated on what I would consider to be an

arbitrary reaction time rather than on the diverse needs of the various communities.

Nigel Don: You offer me some hope that, if we were to ask to see the outcome of that model, with regard to having one ambulance or two ambulances, we would be able to get hold of some real information.

Norman McCandlish: You would be inundated.

The Convener: You mentioned the liaison committee. Is that still operational or is such activity now non-existent? If it is non-existent, are you engaging in measures, locally, to get the service to be more responsive?

Norman McCandlish: The committee is still operational. The feeling is that the committee is a front for a decision that has been taken—I speak as a member of that committee. We are still proceeding, but all that we are doing is monitoring things that have already been put in place. One of the key questions that we asked the operational manager was, "Supposing it were possible to return our second ambulance, would you do it?" The answer was, "No, I would use it somewhere else."

The Convener: Were you given any grounds to explain why that would be?

Norman McCandlish: The ground was that, statistically, that ambulance would not be necessary for our area.

The Convener: In relation to the consultation process, what comparisons have been made between the area of Scotland that you cover and broadly equivalent areas elsewhere in rural Scotland, in terms of the support that the service can provide?

Norman McCandlish: I could not tell you what comparisons were made by the Scottish Ambulance Service. It provides us with a range of statistics, but it does not say how various areas compare with one another.

Nanette Milne: Over the years, there have been problems with NHS 24, which you mentioned. Is NHS 24 operating satisfactorily in your area? Have you any idea of how many of the ambulance call-outs arise from 999 calls rather than NHS 24 calls?

Norman McCandlish: On the second matter, I cannot give you statistics but I could try to find them for you.

NHS 24 is beginning to bed in. When it was set up, we visited the central reaction headquarters in Edinburgh and were dismayed to discover that the communication systems in NHS 24 and the SAS could not talk to each other. That has since been rectified.

The Scottish Ambulance Service is a stand-alone facility that is allied to the health service. We think that there is a problem within its management, in as much as it is obsessed with reaction times. People in the fire services, mountain rescue services or the Royal National Lifeboat Institution do not rabbit on about reaction times. There seems to be a management fixation with reaction times rather than a consideration of what areas really need. A more sophisticated management system is needed.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Reaction times can be difficult to attain in rural areas because of the vast distances, but who decides what the times should be?

Norman McCandlish: The Scottish Ambulance Service.

John Farquhar Munro: So the service decides the yardstick for itself.

Norman McCandlish: As far as I understand it, yes. That is the basis of the problem. The service's internal system does not relate happily with NHS 24 or with the requirements of the community.

John Farquhar Munro: Have you experienced problems with the manning of ambulances? In other parts of the Highlands, we have had big problems with the single manning of ambulances in rural areas. Has that problem affected highland Perthshire?

Norman McCandlish: We have had staffing problems but they have been resolved. As a gesture in our direction, the health board in Perth and Kinross manned a single response unit—a paramedic in a car, who will go to an accident or incident and then perhaps call for an ambulance. The basic problem with a single response unit is that it cannot transport anyone.

The Convener: Do you have experience, or have you heard anecdotal evidence, that having only one unit has reduced the quality of service or impacted on the clinical support that people might need before getting to hospital?

Norman McCandlish: I have no evidence of that.

The Convener: That would be useful to explore. After considering its resources, the management might say that it can meet the needs of people in highland Perthshire through a combination of the single unit and, in extreme cases, air provision. There seems to have been a breakdown of communication. It would be useful to know what the evidence base was for changing to a single unit.

Norman McCandlish: The service has a single unit plus an ambulance in Pitlochry. By and large, the service works. I emphasise "by and large".

Rhoda Grant: You said that you felt that consideration of response times was quite a crude way of working out where ambulances should be placed. Have you any ideas on how the modelling could be improved?

Norman McCandlish: I have no experience in modelling that sort of thing, but I would suggest that considering only something as narrow as a response time is not a good idea. Other emergency services do not use response times as a yardstick.

Rhoda Grant: What other factors should be considered?

Norman McCandlish: Distance would be the main one. I am sorry, but I cannot think—

Rhoda Grant: That is okay—I am putting you on the spot.

Norman McCandlish: I am afraid that you are.

The Convener: This is a difficult area for us, because we do not have the evidence to allow us to come to any firm views. Members will have to discuss how to deal with the points that the witnesses have raised about consultation and implementation. Should we gather more information?

Nanette Milne: As a first step, we should contact the Scottish Ambulance Service directly. Given that the Government makes the final decision when such changes are made, perhaps we should ask for its reaction to the way that things are going.

The Convener: Okay. Are there any other suggestions?

Rhoda Grant: When we ask the Scottish Ambulance Service for more information, can we ask it specifically about cases arising after the new model was put in place and about the different factors that it takes into account in drawing up models for ambulance provision? Response times are one thing, but it would be interesting to know what other factors are taken into account and how many of the decisions are down to resources. If the service is never going to meet its target response time in a rural area and is very far off it, does that mean that it will not try to achieve it? Does that have an impact? Also, can we ask NHS 24 for its views? It is important that the Scottish Ambulance Service and NHS 24 work closely together, as they impact on each other.

John Wilson (Central Scotland) (SNP): It is important that we ask for the views of NHS 24, especially in the light of the issues that have been raised by Mr McCandlish regarding communication problems. We could ask whether those problems have been resolved.

It might be appropriate to write to the health board, asking for its view on the issue given the fact that mention has been made of the cottage hospital situation in local areas. We could ask whether the health board has identified any problems or potential problems with the transportation of patients between the cottage hospitals and the main hospitals in the area.

Given the fact that the petition is about the consultation process that was undertaken by the Scottish Ambulance Service, we could find out from some of the groups that were involved whether they felt that the consultation was adequate for the purpose of the exercise and how it could have been improved by consulting other local groups and, possibly, other agencies.

The Convener: To amplify that, perhaps we should think about contacting the Scottish health council, as there is an issue of comparisons throughout the country. There might be differences in the provision in rural Scotland between the south of Scotland and the Highlands and Islands, but there must still be some core analysis that is part of a template to which the health department and the SAS operate.

Nigel Don: Given that road traffic accidents are an issue, I wonder whether the police might have a view on the matter. I presume that they get to the scenes of a lot of those accidents in rural areas at the same time as an ambulance would get to them.

The Convener: That is helpful. We have a series of individuals and organisations to contact.

The next stage for the petitioners is to respond to the information that we receive. When that information comes back to the committee, you will be notified of the timescale and the process for that, and we will then determine the next stage for the petition beyond that. Thank you for your contribution. I hope that it was not too nerve-wracking for either of you.

Motorcycle Facilities (PE1100)

The Convener: The second new petition is PE1100, by Bob Reid, on behalf of the Scottish Auto Cycle Union and the North Lanarkshire Scramble and Quad Bike Club, calling for the Scottish Parliament to urge the Scottish Government to review planning and environmental regulations to allow for the provision of safe local and national off-road motorcycle facilities, including a centre of excellence in North Lanarkshire, as a way of tackling antisocial behaviour, promoting youth citizenship and improving health.

I welcome Bob Reid and Eric Jones to the meeting. The constituency member, Karen Whitefield, has also expressed an interest in the petition and is here to support it. Like the earlier petitioners, Mr Reid, you have three minutes for your introductory statement, after which we will have a question-and-answer session.

14:30

Bob Reid (Scottish Auto Cycle Union): Thank you, convener.

We have developed a national solution for tackling illegal off-road biking. We want recreational clubs to be established and a national recreational licence to be created in Scotland. The petition highlights the need for detailed legislative proposals that would allow facilities to be created.

Parents and volunteers are taking the lead in resolving community problems. They want to provide a diversion from drink and drugs and prevent antisocial behaviour. We seek to help address many local problems by supporting the establishment of new national planning guidelines alongside Scottish Auto Cycle Union registration licences and training records. A centre of excellence would be based on renewable and sustainable policies with sound environmental and conservation objectives. We would strive to make the centre the first such centre in the United Kingdom that is carbon neutral. We want local authorities to have access to technical knowledge about planning and design applications for motorcycle track developments. We are seeking financial assistance from the Government to establish a centre that will improve safety for all on-road and off-road motorcycle users, and we will increase support for the Government's July 2007 paper, "Motorcycling in Scotland". In the light of the Health and Safety Executive's motorsports directorate's concern for the safety of all riders, we support a national track safety register, and we want the Scottish Auto Cycle Union to be given responsibility for that register.

The growth in off-road motorcycling means that there is a need for facilities and a national rider training programme in order to produce Scottish champions. The activity makes physical and mental demands of its participants; it requires high levels of skill and fitness, so promoting comprehensive health benefits. Children can start riding at six years old and in most recreational clubs 80 per cent of riders are under 14. They are the future. The primary form of membership is family membership.

The innovative scheme that we propose would promote community spirit and provide quality play and learning opportunities. National records of achievement would be enshrined in a national code of conduct and community sports facilities would be improved. Educational opportunities would be provided to local colleges and other training agencies. Community facilities, whose ownership would be community driven, would be promoted and derelict land, which is an underused community asset, could be considered for development. The scheme would promote the volunteer ethos and the sportsmanship ethos and people would learn new skills, develop environmental understanding and engage in a carbon-offset activity. Those are the initiative's primary building blocks.

Without a planning review, we will remain disadvantaged if we want to develop local facilities. Other European Union member states have addressed the issue and the campaign to establish proper facilities is attracting interest from social and restorative justice agencies and other agencies throughout the UK.

The Convener: Thank you very much. Would Eric Jones like to add to what has been said?

Eric Jones (Scottish Auto Cycle Union): No; Bob said most of what I wanted to say.

The Convener: As I said, we have material that you sent us in advance of the meeting. Also, a number of members will have encountered North Lanarkshire Scramble and Quad Bike Club's exhibition and information stall in the Parliament a while back.

I invite Karen Whitefield, who is the constituency member, to say something. Following that, there will be a question-and-answer session.

Karen Whitefield (Airdrie and Shotts) (Lab): Thank you for allowing me to attend the meeting, convener.

I have had the pleasure of working with the organisation that lodged the petition for several years. An innovative way of tackling a problem that is not unique to North Lanarkshire has been found. I stress that quad biking in a safe and secure environment is a positive and healthy activity for young people to engage in, but the misuse of quad bikes often blights communities throughout Scotland.

The North Lanarkshire Scramble and Quad Bike Club provides young people from all over Scotland with excellent opportunities at weekends to engage in their passion for riding on quad bikes. The club wants to develop and build a centre of national excellence that can be used by people from throughout Scotland, not only from North Lanarkshire. We need a strategic view on how the development of such projects should be supported and particularly on how planners tackle such matters. The club has experienced difficulties with its current facilities as well as with its proposals for

the Forrestburn site. It would be helpful to have a strategic planning approach that provides clarity and openness on planning decisions on the use of off-road vehicles and quad bikes. We ask the committee to consider that today and to request the Government to consider a review of the matter.

The Convener: Thank you very much. That is very helpful. Do members have any questions?

Nanette Milne: How does word spread about the existence of the facility? Is it envisaged that such centres of excellence should be located in fairly isolated areas, away from centres of population? I am thinking of the noise factor. As a former councillor, I know that councillors would be bombarded with complaints if a planning application was submitted for an activity that would make a lot of noise. Where is it envisaged that such facilities should be located?

Bob Reid: There is a chance now to review modern technologies. In Europe, the sound-proofing processes for motorways mean that the noise level can drop by between 6dB and 10dB. Noise perception is another issue that needs to be considered, given that EU legislation on quiet in the countryside will come in in 2009. The activity is part of a multimillion pound industry, but we are missing facilities for young people. We are talking about job creation and taxation. This is a bona fide system. We just need facilities.

Where would we put the facilities? With proper design and building, noise and disturbance can be reduced. I know that the noise from the track near where I live goes away at a certain time of day because the activity is regulated, but we have instances of people being out on a quad at 2 o'clock on a Sunday morning. That is not regulated.

Nanette Milne: How do you spread the word? Do people come flocking to you or do you advertise?

Bob Reid: At the moment, we can cope only with certain numbers. We have a very structured process that requires licences, insurance and proper training. People cannot run an event unless it meets all the requirements. In comparison with many other sports, the activity has many more legalities to consider, because it is classified as a dangerous sport. However, there are other dangerous sports in which more people have been injured.

Claire Baker (Mid Scotland and Fife) (Lab): My first question, which follows on from Nanette Milne's, is about outreach work. How do you encourage people to use centres and to give up illegal off-road biking?

I will also ask my other question now. Fife's provision for off-road biking won an award for discouraging antisocial behaviour in the area. Why has Fife Council managed to be successful on that? Is it just down to interpretation of the current planning guidelines?

Bob Reid: I think that the planning guidelines are interpreted differently across the board. That is why national guidelines could help.

On the question how people get to know about the facility, the fact that our initiative involved Strathclyde Police, North Lanarkshire Council and the Scottish Auto Cycle Union meant that we had a natural way of bringing people in. There has also been a great interest from social work departments and restorative justice agencies, which see the facility as an opportunity to encourage young people to engage in the activity legally, rather than be criminalised for their hobby. The new law on seizure and the firm approach that has been taken means that young people can find that they no longer have a bike or a clean driving licence. They might even find that they have an endorsement on their licence before they have passed their test. There are wider implications to the lack of facilities for young people. If we had more facilities, there would be a tenfold increase in the number of opportunities for young people to engage in the activity properly and outwith communities. They could enjoy the activity as well as its health benefits and other aspects.

Nigel Don: I want to try, gentlemen, to tease out what we really need to do. I think that we have three suggestions, if I have heard them correctly. First, you would like some money because that would not half help. Secondly, you are interested in getting some enthusiasm from the Government for planning. Thirdly, you might be looking for some detailed changes to the planning law.

I will address those points from the bottom up, and please correct me at any stage. My recollection of my days as a councillor on Dundee City Council is that we had no particular problem with giving planning permission to someone who wanted a motorcycle training facility fairly close to the middle of town. Noise was the main issue, but there was no particular problem in using a patch of what was otherwise derelict land close to a main road. That suggests to me that planning might not be a particular problem, so will you clarify what needs to be done with planning and whether the issue is one of Government enthusiasm or that some detail of planning law needs to be addressed?

Bob Reid: We can run only 28 events per year under the current planning legislation without having to go through a full planning application. So far, our full planning application has been refused on the ground of noise. However, the potential alternatives or diversionary measures that we could use to reduce noise were not looked at.

From the planning point of view, noise is the issue that continually comes up, so that is what must be addressed. If anyone makes a complaint, it has to be dealt with under environmental noise legislation. That is where we might have a slightly unfair advantage. Planners need to know the up-to-date approach. For example, the planning department of North Lanarkshire Council has asked me what should be in the design submitted by a private concern that is trying to establish an off-road facility. Planners obviously need training to make them more aware of the modern approach that needs to be delivered so that the facilities to be provided fulfil the requirements.

Other countries can manage it, and I honestly believe that it is about perception at the end of the day. I do not come from a biking background. I have spent 30 years trying to stop illegal off-road motor sports in the countryside. The time has come for us to look seriously at how we can make provision for such sports, not how we can exclude people from exercising their rights under the planning law.

On funding, it might be worth while to say that one club creates £70,000 in kind per year through volunteering. It saves one police division £40,000 per year in the cost of investigating crime because there are no complaints to investigate. Parents and other people volunteer to deliver a programme and that effort is backed up by the costs that it can save society in the long run, so I would like to see a trade off. The two things could be in partnership.

Nigel Don: If I have heard you right, Mr Reid, you are saying that the problem is a general one of getting planning permission when councillors are naturally concerned about noise. I am sitting here as an ex-councillor and saying that we are not suddenly going to stop being concerned about that and the Government is not going to issue any kind of guidance or advisory note that noise should be ignored; councillors would not stand for that if the Government did it. I therefore want to know what it is that you really want Parliament to get changed if it is the case that you can get planning permission except when noise is the issue. Noise is not going to stop being the issue.

Bob Reid: Ten to 15 years ago we did not have the same materials available to do something about noise. It can be managed and controlled. So instead of continually coming back to the noise legislation, which is important, the planning departments should be looking at how to reduce noise by using modern technology or proper design factors in the creation of a facility.

14:45

Nigel Don: So perhaps good practice needs to be disseminated around the 32 planning departments.

Bob Reid: Certainly.

Nigel Don: That would mean that those departments understood how a proposal can be made to work and did not knock it back on the ground that a facility would be too noisy.

Bob Reid: Yes.

The Convener: We have had a good questioning session and many members obtained quite a lot of good information from the presentation stall, which will probably help to distil some of the ideas. I thank the petitioners' constituency member for her contribution, which will help us to arrive at conclusions.

Do members have strong suggestions for dealing with the petition? Several issues have been raised about national guidelines. As always, I expect that we will want to write to ask the Government whether it intends to consider the issues, whether existing legislation could be amended to address the concerns and whether, if good practice such as that which Claire Baker identified in Fife exists, we could use that as a template for other parts of Scotland. Do members have suggestions?

Eric Jones: Fife and North Lanarkshire both fall under the umbrella of the SACU. As the national governing body, we need your support for the whole of Scotland—not just for Fife or North Lanarkshire. Those areas have managed it, although North Lanarkshire is struggling. We need guidelines.

The Convener: It helps to have the information, because the instinct is to say that the subject is really difficult. If we can show that, with a bit of innovation and commitment, progress has happened in two areas, why cannot that be replicated in other parts of Scotland?

Rhoda Grant: Given what has happened in Fife, we must be able to learn good practice from Fife Council, so we need to get in touch with it. Rather than ask the Scottish Government whether it will change the planning guideline, which would take a long time, perhaps we could ask it to examine the information that it passes to councils less formally, to encourage councils to reconsider the matter. We could also ask North Lanarkshire Council what its concerns are and what it is taking into account.

Nanette Milne: Perhaps we should find out other council's positions. We could write to ask the Convention of Scottish Local Authorities whether the same problem has arisen with such activity in other council areas. I have no idea about that, but it would be interesting to find out.

Bob Reid: Such activity is happening throughout Scotland.

The Convener: Earlier this week, a partnership with the Scottish Football Association was announced under the cashback for communities scheme, which uses the proceeds of crime. Such work has developed in the past few years and is now becoming concrete. What the petitioners said suggested that off-road facilities might be a solution to antisocial behaviour. They might minimise it and give youngsters a chance to do positive and energetic things, so that possibility might be worth considering. I am sure that the constituency member has flagged it up to the relevant minister, but there is no harm in the committee's mentioning that.

I have a wee note that suggests that we might want to ask the Royal Town Planning Institute about aspects of the planning framework. I would be happy to do that.

Nigel Don: The petitioners said that some European Union member states have found a way of dealing with the issue. I have no idea how it could be done, but could Fergus Cochrane, the clerk, find out what is done in the EU, please?

The Convener: Good luck, Fergus. I thank Nigel Don. Members' suggestions are always helpful, according to the clerks' private memos.

The suggestions are reasonable. As I told the previous petitioner, we go through stages with petitions. We have reached the next stage. We will gather that information and see whether developments can be achieved.

I encourage the petitioners to continue to provide information to elected members, which has helped in obtaining a good response from the committee. I hope that you have had a reasonable time here and that we will make progress on the issue. Thank you.

Cancer Treatment (Cetuximab) (PE1108)

The Convener: Petition PE1108, by Tina McGeever, on behalf of Michael Gray, calls on the Scottish Parliament to urge the Government to consider the provision of cancer treatment drugs, in particular cetuximab, on the national health service, to ensure equity across NHS boards in determining the appropriateness, effectiveness and availability of such treatments. I welcome Tina McGeever, the petitioner, Michael Gray and George Darroch.

I have two things to say. First, you will see that a trinity of MSPs has joined us for the petition. I normally worry when I see the three of them walk into a room when I am chairing a meeting. Obviously, they were contacted about the petition both at a constituency level and in general terms.

Secondly, I have received a note from Richard Lochhead, who—wanting to rub it in—says that he is at a Cabinet meeting. Richard expressed an interest in the petition, and had hoped to contribute today if he could possibly do so, but because of pressing Government business he cannot. I welcome the MSPs who are not committee members to the meeting.

I invite Tina McGeever to make her opening statement. You have three minutes.

Tina McGeever: Thank you for giving us this opportunity to share our concerns about NHS Grampian's decision not to fund the drug cetuximab for my husband, Michael, who has advanced bowel cancer. I am really delighted that Michael is sitting here beside me today. In October 2007, he was given months to live, and our only option was to finance the use of cetuximab privately, with the support of family. Not only did we have to finance the cetuximab privately, but we had to finance the related drugs, which increased our costs. As a result of those drugs, Michael's condition is now stable. We have been informed that if we do not get a decision that allows us to receive cetuximab on the NHS and we run out of funds, Michael will have one to two months to live.

Our appearance before the committee today is evidence of failure—NHS Grampian's failure to acknowledge the clinical judgment of Michael's clinician; our failure to negotiate with NHS Grampian to make funding available; and the general public's failure to appreciate fully the need for funding consistency for terminal illnesses.

The petition highlights the wide range of people who believe that the Scottish Parliament should consider fully the funding of life-enhancing drugs.

I want to put before the committee some matters for consideration. As I said, Michael was told by his consultant in 2007 that he had months to live. The consultant was willing to prescribe cetuximab to Michael, but NHS Grampian refused to fund the drug, stating that it was following the advice of the Scottish medicines consortium. We have had two meetings with NHS Grampian—with Richard Carey, its chief executive, with its medical director, Dr Roelf Dijkhuizen, and with our oncologist, Graham Macdonald—but they were fruitless; they produced nothing.

Michael continues to work full time as assistant area manager for community care with Hanover (Scotland) Housing Association. He will be in work tomorrow, and he will receive three hours of treatment while he is working. The issue of our funding difficulties was raised in the Scottish Parliament, and the current Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon, stated that, although she would not become involved in clinical decisions, the matter of treatment should not be linked to funding.

NHS Grampian, like all health authorities, is an autonomous organisation that may decide how to spend its funding allocation. The SMC is an advisory body. We have examples from the past 12 months showing that NHS Grampian has ignored the SMC's advice and has chosen not to approve drugs that the SMC has approved.

We are asking the Scottish Parliament to consider establishing a framework for the consistent funding of terminal illness services throughout Scotland's health authorities. Particular emphasis should be placed on the funding of drugs that may lead to people's lives being enhanced. Although priority should be given to curing cancer, we require an acceptance that, for some people who are terminally ill, the opportunity to live longer before their eventual death not only is important to them and their families but is beneficial to society. The benefits can be attributed to the person's contribution and to the value that Scotland places on its people. Furthermore, we wish the Scottish Parliament to ensure that health authorities understand the advisory role of the Scottish medicines consortium and that they are under no statutory obligation to accept the SMC's advice.

The Convener: Thank you—I know that the subject is difficult for you, but you did exceptionally well.

Without being too intrusive, I want to clarify some issues for my benefit. Our information is that the average cost of a cycle of your husband's treatment is nearly £4,000. Is that correct?

Tina McGeever: It is about £3,400 for a cycle, which is per fortnight.

The Convener: And the required treatment is four cycles.

Tina McGeever: No, the treatment must continue.

The Convener: Right. So you are talking about a fairly onerous charge to get the treatment privately, and it is on-going. The figure for one cycle would be big for any household to deal with, never mind that the cost is on-going. That is probably why the maintenance of a full-time job is required, given the circumstances.

Tina McGeever: Yes.

The Convener: The brutal reality has to be amplified for the committee's benefit.

Several members of the Parliament who are not committee members have expressed an interest in the issue. I am not sure whether there has been an agreement about who will go first, but I invite Peter Peacock to begin.

Peter Peacock (Highlands and Islands) (Lab): I am grateful to you, convener, for allowing me to speak. Michael Gray has been in touch with me, because he lives in my region. However, as has been mentioned, Richard Lochhead and other regional members have supported his case. I got to know Michael Gray only comparatively recently, and I must say that it has been a very humbling experience. In recent months, he has sent me and other members copies of all his correspondence with the health board. I have seen the colossal effort and energy that he and his family have expended on arguing his case with the health board. Frankly, at his stage in life, that effort could have been better spent on a variety of qualitative measures, rather than on having to fight in that manner. The process that he is having to go through to obtain a decision of the health board under an exceptional circumstances clause in the procedures would be extraordinarily challenging for the fittest of people. It requires real grit and determination, as well as an understanding of public systems and the ability to be articulate and forceful in pleading what is a case for extending his life.

We must learn lessons from every case that comes before us. I do not doubt for one minute that there are complications and difficulties in making judgments about people's medicine in such circumstances. However, we must learn the lessons from the case, which raises questions about how we respect human dignity. I find there to be something degrading about, in effect, requiring a man to go with his family and plead in front of a committee of 10 people for a drug that he knows will extend his life for what is, by all standards, a fairly moderate period. That is notwithstanding the fact that his consultant has decided, based on the clinical evidence and his judgment, that the drug is the right one for Mr Gray at this stage of his treatment.

Tina McGeever made the good point that only because Michael Gray and his family can, at present, fund his treatment privately have they been able to prove that the treatment has a beneficial effect on him. That has allowed him to make his case to the health board about the exceptional circumstances that justify funding the treatment. It is self-evident to me and, I am sure, to other members that not everybody in Scotland could fund such care to prove a case that they deserve a drug on clinical grounds. That is an issue of principle.

Both Tina McGeever and Michael Gray have highlighted the apparent inconsistencies in the treatment of terminally ill patients in the health service. The committee might want to ask questions about that. I am sure that Tina and Michael can answer them better than I can.

15:00

Perhaps the main focus of the petition is equity of treatment among health boards in Scotland. It is theoretically possible that, if Michael lived 30 or 40 miles to the west of where he currently lives, he would not have had to go through the same procedure, because the health board's decision might have been different. I cannot state absolutely that it would have been different, but there is scope for that—I understand that an adjacent health board and others in Scotland prescribe cetuximab.

It is a question of basic equity. Depending on where someone happens to live, where they happen to have been born or where their job happens to be when they become ill, they might not receive treatment that they would receive elsewhere in Scotland.

For all those reasons, I am delighted to support the petition, and I hope that the committee will give it full consideration.

The Convener: I am aware of the sensitivity of the petition, so if other members want to say anything, this is the best time to do it. It is not normal practice, but it is appropriate, given the nature of the petition.

Margaret Curran (Glasgow Baillieston) (Lab): Thank you, convener. I appreciate the opportunity to contribute.

I should explain that I am here in slightly different circumstances. Mike and Tina have been good friends of mine and my family for more than 20 years. That is the background against which I speak today. Having said that, I think that it is important that politicians and the system hear a personal view of what a family is going through and its impact on their friends. One dimension of the case is that Mike and Tina have experienced an unfriendly and distant health service. It is incumbent on us all to understand that.

From the petition flow many important issues that are telling for us all in Scotland. As Peter Peacock said, decisions about drugs—particularly for someone at Mike's stage—are difficult. We all know about finite resources and how difficult decisions can be for health boards. However, Mike and Tina's experience has thrown up a considerable range of questions about how such decisions are taken, and they must be addressed.

There is no big party-political divide on the issue—we are all trying to grapple with the same problems—but I have asked a number of parliamentary questions, the answers to which seem to suggest that we do not have proper systems in place. There are certainly questions to be asked about how we take forward the issues.

I am trying to say to the committee merely that I think that a range of questions and issues need further exploration in the Parliament. Tina and Mike have done us a service in raising the issues because, with the greatest respect, I do not think that their case is a one-off. Other families will be struggling in a similar way, and we desperately need to learn from what Tina and Mike have gone through to prevent it happening again.

Bill Butler (Glasgow Anniesland) (Lab): I hope that our colleagues on the committee will listen carefully to what the petitioners have said and will say in response to questions and to what members have said. I hope that they will support the petition and push the Government to consider the serious issues that it raises.

Let me put on record and pay tribute to what Peter Peacock has already referred to: the colossal effort of Michael Gray and Tina McGeever and their family and friends in bringing such a serious issue to the Parliament. I became involved when the family and friends of Mr Gray who reside in Glasgow Anniesland approached me on the provision of cetuximab. I asked the Cabinet Secretary for Health and Wellbeing a question on 15 November 2007, and I followed that up with a letter.

The points that the petitioner has made all demonstrate the need for greater transparency and accountability on the part of health boards. Additionally, I believe that there is a need to develop a uniform framework across health boards that allows for greater flexibility of approach, so that the provision of cancer treatment drugs on the NHS is more equitable and, above all, more humane. The bottom line is shown in what the cabinet secretary, Ms Sturgeon, said when the issue was raised in the chamber: treatment should not be linked to funding.

I ask the Public Petitions Committee to agree with the points that the petitioner is making and to do its utmost to press the Government to ensure that we do what is necessary to create a more equitable and humane system.

The Convener: Thanks very much. I know that it is unorthodox, but I thought that, given the personal and emotional circumstances, it was appropriate to allow members who are not members of the committee to contribute.

Committee members will now want to probe the issues.

Rhoda Grant: Thank you for the presentation. The issue obviously is difficult for you.

The petition mentions that you also have to pay for the associated chemotherapy that goes with cetuximab, although that chemotherapy is routinely available on the NHS free of charge. Can

you explain why that is, and tell us the cost of the associated drugs, which are usually available free of charge?

Tina McGeever: The chemotherapy is available, but we were told that we were not allowed to have a public-private arrangement for drugs, so we have been forced to pay for everything. For example, it costs £113 to get bloods taken and £200 to transport the drugs. If Michael received six months of treatment, the cost would be about £16,000, because our oncologist would not provide the chemotherapy and the other drugs and pharmaceuticals that are already available on the NHS. The drug itself costs about £387 for one session, but there are additional costs. George Darroch has handed me a note. It is estimated that the cost of the drug is £682.50, but we have to pay for the chemotherapy and for the nurse to come in and administer it, and it has to be delivered. Those are all additional costs in the private sector.

Rhoda Grant: Can I clarify the figures? You said earlier that a cycle of treatment costs about £3,400.

Tina McGeever: Yes.

Rhoda Grant: Of that, £682 is for the drug.

Tina McGeever: Yes. It is about £682—perhaps slightly more than that, but not much more—for the cetuximab. You also have to add on the cost of the chemotherapy. With Michael's first treatment on the NHS, we still had to pay for the drugs. We were also charged VAT on the chemotherapy.

Rhoda Grant: I am having difficulty getting to grips with the matter. You pay about £2,800 for treatment that would be freely available on the NHS if you were not using cetuximab.

Tina McGeever: That is right. If Michael was getting only irinotecan and the other pharmaceutical drugs that are necessary, such as steroids and so on, they would be freely available on the NHS. Our oncologist has estimated that cetuximab would cost £682.50 per cycle, or per treatment, on the NHS. I can give you the invoices for the whole payment, if you want to see the breakdown of the figures.

Rhoda Grant: So it is being said that, on the basis of £682 a cycle, the issue is cost, and they are not willing to—

Tina McGeever: Sorry, the cost is £682.50 a week—it would be double that for a cycle.

Rhoda Grant: If the rest of the treatment costs so much more than cetuximab itself, I cannot understand why it is being refused on the basis of cost.

Tina McGeever: It is because we are paying privately. We cannot have a public-private arrangement for the drugs.

The Convener: Essentially, Michael presented to the NHS with an illness. The drug that is most appropriate for him is drug X but, because the NHS will not prescribe it to him, you have gone private, and therefore the associated and support costs that would have been met for AN Other drug, which would have been seen as acceptable, have been denied to you.

Tina McGeever: That is right.

The Convener: So when you raise that point, amid all the other trauma that you are probably going through, what reaction do you get? Is the health board embarrassed about the situation? Is it in denial? Have 10 people had a meeting, then said sorry to you? Having read the briefing papers on the petition, it strikes me that it is an astonishing set of circumstances for any family to face.

Michael Gray: Before I answer the question, I want to say that I am slightly embarrassed, because a lot of the focus seems to be on me and my drugs. In a sense, we are here to talk about the wider issue, which is that 400 people annually face the same issue in Scotland. They do not have the means or the money to provide the NHS with the evidence. That is the main thrust of why we are here today.

To try to answer your question, what Grampian NHS Board said in letters to MSPs and, I guess, in briefings to the Cabinet Secretary for Health and Wellbeing is that it relies on advice from the Scottish medicines consortium for the funding and approval of drugs. The SMC has said that cetuximab is licensed, so it can be used privately, but it is not approved for funding. Grampian NHS Board has accepted that view, so it will not fund the use of cetuximab.

Tina said in her opening speech that NHS Grampian's website shows that it chose not to use 12 drugs that were approved in the past year by the SMC. NHS Grampian's decision making with regard to which drugs it will and will not use is inconsistent. The board has the right to use whatever drugs it wants; it does not need to rely on the SMC for its decisions.

The Convener: So there is a pick-and-mix approach to selecting the drugs that the board can or cannot use.

Michael Gray: I think so.

Tina McGeever: I point out that the issue is not just that cetuximab is not to be used. The minutes of one of the board's meetings show that, although the SMC approved the drug, NHS Grampian did not. So it is not just a case of not using the drug: it has not been approved by NHS Grampian.

Nanette Milne: There is a wider issue. I am sure that we would discover similar situations with other

drugs. In addition, the National Institute for Health and Clinical Excellence—NICE—and the SMC sometimes make conflicting decisions about whether a drug should be approved. When I was a member of the Health Committee last session, we hoped to have an evidence-taking session with NICE and the SMC to find out how they reached their conclusions.

Apart from your own sad case, Mr Gray, there are wider issues that need to be examined. I hope that we will take that forward.

Robin Harper (Lothians) (Green): I am still a bit confused. I get the feeling that, to put it bluntly, Grampian NHS Board is just making it up as it goes along. Is it correct that nothing compelled the board to take the decision that it took?

Michael Gray: I cannot talk for health boards, and I certainly will not talk for Grampian NHS Board. However, I will give you an instance. Next Thursday, I am going to the exceptional circumstances meeting. Such meetings have come about, I think, because health boards have been hit with court action in relation to the funding of drugs. Health boards now have an exceptional circumstances system in place to deal with drugs that have been licensed but not approved for funding. Mine will be the third case to be heard by Grampian NHS Board, which does not have criteria for deciding what are exceptional circumstances and what are not. However, as Peter Peacock said, my consultant and I will be expected to meet 10 people who are all doctors and who will probably quiz my consultant more than me. The following day, they will decide whether they agree to the funding, and they will phone me to tell me. That is not a transparent process.

I heard committee members decide earlier what they wanted to do with the previous petition. You made decisions and recommendations openly, but that will not happen in my case. It is appalling that a public health service does not do its duty in such an open manner.

15:15

Tina McGeever: In relation to that, when Michael was first told about cetuximab, the oncologist wrote to the chief pharmacist. One person made a decision, and it was not even written in a letter; he was just told, "No, you're not getting it." A week on Thursday, however, he will go along and 10 people will make a decision.

Bashir Ahmad (Glasgow) (SNP): You cannot buy a human life—to save a person's life is a very noble thing. I have heard that the treatment costs £682 per cycle. How many cycles are needed in a year?

Tina McGeever: It is per week, and treatment continues as long as the drug is working. The oncologist has stated a cost of about £16,000—it would cost £16,380 for six months of treatment. That is what we are asking for.

Bashir Ahmad: How many cancer patients do we have in the country at the moment who need that kind of medicine?

Michael Gray: There are 400.

Tina McGeever: In Aberdeen, under NHS Grampian, NICE is undertaking part of the COIN trial, which is looking at cetuximab. Michael was actually part of that trial, but he did not get the drug, as he was on one of its other arms. So the drug is still being examined and, according to NICE, the situation will be reviewed in May 2009.

The Convener: That timescale is obviously reassuring for you, Tina.

Michael Gray: And for me.

Tina McGeever: The oncologist said to Michael that the drug will be approved, but not in Michael's lifetime.

The Convener: We are fairly toughened characters here, but what we have received from you and what has been elicited in the discussion is quite shocking. It is hard, at times, to be shocked in this job, but members of the committee are shocked by the process, never mind the decision making. We really need to see if we can expedite matters. I think that we wish to take the matter forward. How do members feel?

On behalf of the committee, I have to say that it is incredibly noble of you, Michael, to feel more concern about the many other folk, given the circumstances that you are facing. It is quite humbling for us to hear that, as you identified, other folk in Scotland have faced the same situation without any access to resources whatsoever, and they have probably passed away in the time that the petition has taken to come forward.

We need to find the best way forward—using a combination of the personal and the bigger picture, as Margaret Curran identified—in addressing the principle of how we treat folk in the NHS and how we deal with the costs of drug treatment. I seek guidance from members of the committee, and from the members who have come along in support of the petition, on how we take the issue forward with reasonable speed, given the circumstances that the petitioner and his family face. Are there any strong views on that?

John Farquhar Munro: I have been pondering the situation. It seems anomalous that the drug should be approved for use within the NHS yet the NHS does not always prescribe it, and if it does it

is at a cost. That is absurd. Some weeks have passed since you first started to lobby with your petition. Has the NHS relaxed its attitude?

Michael Gray: I have to say, with respect, that I think that the board has been surprised by the position that we have taken. We have made it feel more accountable professionally and publicly, through the press campaigns and the meetings that we have had with it. We have asserted our personal authority in response to how the board has acted towards us. It has found that difficult, because I do not think that it is used to people asserting themselves in that way.

Rhoda Grant: Given that you have funded the treatment yourself and that it appears to be working, has the board given any indication that it will fund further treatment on the basis that it appears to have been successful?

Michael Gray: I will be able to tell you that next Friday, after the exceptional circumstances meeting next Thursday. I will receive a phone call to tell me the decision.

Rhoda Grant: Would the board refund what you have already paid?

Michael Gray: You ask a really good question. I met one of the board's members last Friday and he said that he would support 100 per cent the backdating of the moneys, but that was said in a private meeting, so I do not know what would happen.

Tina McGeever: By funding the treatment we are, in effect, providing evidence to the NHS that the drug is working. The oncologist has said that because Michael's condition is stable, he recommends that we continue with the treatment.

Nigel Don: Before we discuss conclusions, I want to clarify my thinking on the petition. I have listened to and read the evidence, which is extraordinary. I add my voice to those of people who have praised you for pursuing the matter as far as you have, at not just a personal level—you can see the bigger picture.

There seem to be at least three almost separate issues, although they bump into one another. First, I can understand why NICE and the SMC might disagree with each other—professionals will disagree—but the anomaly seems to be that the NHS in Grampian, or anywhere else, can decide that it does not agree with NICE or the SMC. That seems very strange. We need to ask how that can happen and consider why the health board needs an independent judgment.

The second issue concerns the exceptional circumstances committee, which you talked about. I thought to myself that that process was inherently inequitable. If NHS Grampian is in some sense making it up as it goes along, it is inequitable that it has such discretion, unless there is a good reason for that. Is there a good reason for such discretion or is it just institutionalised inequitability? I am glad that I do not have to spell that.

The third point, which I find extraordinary and appalling, is the idea that because you are paying for part of the drug treatment privately, the public purse will not do what it would do otherwise. Although that issue is separate, it is relevant to your case.

Are there any other separate issues that I have missed but which we need to address?

Michael Gray: Some of you might have seen the first article in the *Daily Record*. One of the points that I made was about the inconsistency of funding for terminal illness. I gave the example of the man who was badly burned in the Glasgow airport incident. He was taken eventually to the royal infirmary in Glasgow and I guess he was, quite rightly, lovingly looked after in a burns unit. He would have received intensive care and would have got the best treatment that you can get. I do not think that anyone there said, "How much is this going to cost?" Given the nature and value base of the NHS in Scotland, it would all have been about making that man as comfortable as possible, knowing that he was terminally ill. However, with cancer, a pot of money is associated with care. I was told in October, "You're going to die in five months' time; there's nothing else—well, there is, but it will cost you." That is very different from the experience in the royal infirmary of that man and his family. The issues are similar to those for people with terminal cancer, but there is an inconsistency, which both the Parliament and the health boards need to recognise as such.

Nigel Don: So there is a separate issue, which is how we treat people who are terminally ill, regardless of their affliction.

Michael Gray: Yes.

The Convener: How do you feel about attending a meeting of a body that is called the exceptional circumstances committee? That is remarkably sensitive terminology for a discussion about your future.

Michael Gray: Apart from Margaret, George and Tina, no one here knows me from Adam, but I have always been a real supporter of the NHS. I have a difficulty with private health care and queue jumping. This is the first time that I have used private health care. I have a difficulty with the principle.

The committee might decide to pass the petition on to the Health and Sport Committee, which then might decide to take evidence from the SMC and Grampian NHS Board, and I am worried that

MSPs will believe them. Our experience needs to be heard at the same time. If a decision is made to take evidence from other parts of the system with which we have had difficulty, we would certainly want to be able to provide some balance, because bureaucrats have a way of talking that makes what they say sound highly plausible. Grampian NHS Board has already given MSPs a great deal of information on how it dealt with us, which I think has misinformed Parliament—that is how seriously I view the matter. You have been told that the board has a policy of agreeing with the SMC, but it does not. I cannot speak for other health boards.

Tina McGeever: The convener asked about the use of the phrase "exceptional circumstances". George came with us to a meeting on 6 December to take minutes, because there was no minute taker. I had to ask what was meant by "exceptional". The people who were present could not tell us—they struggled with the term and could not give us a definition. It becomes a medical term that is applied to a group of people.

The Convener: I am conscious that other members have points to make. I will take some suggestions on what we want to do next.

Peter Peacock: I want to emphasise a point about the exceptional circumstances process. Like me and others, the committee has today had the benefit of observing how Michael and Tina conduct themselves. Michael is experienced in the public sector and understands issues of public sector policy making and decision making. He is prepared to stand up for himself and argue his corner in a reasoned way. As I said earlier, he now finds himself in the rather degrading position of having to go in front of 10 people to argue his case further. Huge numbers of Scots would never have got to stage 1 of the process, let alone the end of it.

I do not underestimate the difficulties associated with prescribing drugs in certain circumstances, but whatever else the Public Petitions Committee does, it should ask that the decision-making procedures in question be looked at and, to an extent, humanised. It seems to me that people's human dignity is at stake. We must examine that issue, among others. I think that Margaret Curran has some specific suggestions.

Margaret Curran: I have been trying to get my head round some of the challenges that Mike's experience has brought to light. There are issues of time—I think that I am correct in saying that when Mike first asked for a decision, it took a month for someone to get back to him. That is extremely concerning, given that in his case time is of the essence.

There are issues to do with the approach that Grampian NHS Board has taken. For example, it does not minute meetings or have definitions for certain things. Mike and Tina have had to fight to get basic information. There are also issues about the criteria for decisions, if such criteria exist. It would be pertinent to investigate all those aspects of the practice of Grampian NHS Board as they relate to Mike's case.

15:30

With respect to my colleagues on the committee—it is your decision—I propose that it would be worth while to ask the Cabinet Secretary for Health and Wellbeing to investigate NHS Grampian as a matter of urgency. She could set up a mini task force or appoint a reporter to investigate.

I am not sure how much of the problem is a failure of individuals and practice in Grampian and how much is a failure of the national health service. I tried to allude to that earlier. We all have some responsibility for things not happening properly. As I think Bill Butler will tell you in a moment, the drug is approved in Wales. If Mike lived in Wales, he would get the drug. As the *Daily Record* article pointed out some time ago, if he lived in any of a range of countries in Europe, he would get the drug. There are questions to be asked.

I would not necessarily point the finger at an individual, because the issue is about SMC behaviours and practices. We need to understand that and consider what the issue is. We need a two-tier approach. One tier is the immediate issue of what is going on in Grampian, and the other is the broader issue of the availability of drugs for people in circumstances such as those that Mike is facing and how that is taken forward in Scotland. The latter is a broader issue for all of us to be concerned about.

Bill Butler: Margaret Curran is correct to suggest that the committee should call on the cabinet secretary to set up a mini task force with regard to Grampian, but there is something else that should go alongside that. I hope that colleagues will find themselves able to suggest to the Health and Sport Committee that there should be an inquiry into the treatment of terminally ill patients throughout NHS Scotland, because there seems to be nothing that we would recognise as a framework and there is an absence of criteria that are applied uniformly, equitably and humanely.

I am not trying to tell the committee or the Health and Sport Committee what to do, but I take up Michael Gray's point that evidence should be heard not only from the SMC but from the leading charity in the area, which is Bowel Cancer UK. Its director, Ian Beaumont, said:

"Bowel Cancer UK is actively helping patients to gain access to effective treatments, including the newer biological agents … Proof of the efficacy and benefits of these treatments is growing all the time, particularly to people in the later stages of the disease, and we strongly believe they should be made more widely available on the NHS."

Bowel Cancer UK is one of the organisations from which the Health and Sport Committee should take evidence, because there has to be a balance between the view that is espoused by NHS Grampian or the SMC and the view of those who are actively engaged in the field in supporting people who are going through a terminal illness.

That is what I respectfully suggest to the committee. My suggestion sits alongside Margaret Curran's suggestion about a mini task force.

The Convener: Let us move to some firm conclusions and try to progress the petition.

Nanette Milne: I agree with what Margaret Curran and Bill Butler said. There are clearly significant issues. Part of NICE's remit and also SMC's remit is to do with the cost, and cost-effectiveness, of certain drugs. The fact that they have been licensed for use means that they can be used on patients. However, the case needs to be proved, because there are inconsistencies. I have believed for a long time that there are inconsistencies not just with cancer drugs but with some other drugs as well.

If I was still on the Health and Sport Committee, I would have hoped to push to get an inquiry into the matter. I endorse the idea that we should contact that committee and suggest such an inquiry. We do not want to force it into doing work or try to tell it what to do, but the issues are significant.

I also endorse the suggestion about the health board, which is the health board where I live. I suspect that it is not the only health board affected and that, in the same circumstances, others would be lacking. The matter needs urgently to be looked into.

Bashir Ahmad: The committee should do whatever it can to take the case to the Scottish Government. We should persuade it to take a lead for the Scottish people.

The Convener: Two or three constructive suggestions have been made. One is that we give the *Official Report* of today's discussion and the background information to the convener and members of the Health and Sport Committee. We should let them know that we are concerned about the situation and that, although our natural instinct is to not refer matters to subject committees until we have explored them fully, we felt that this was a matter of some urgency and that it was important that it be dealt with as soon as possible.

We also need to seek advice from Bowel Cancer UK and to write to NHS Grampian to say that we are concerned about a series of issues relating to this case, which we feel might be only one of a number of such cases. We should draw attention to the fact that, while Mr Gray has access to some resources that allow him to get the treatment, there will be hundreds of other people in Scotland who have no such resources and will be, in a sense, written off.

I am deeply troubled by the term "exceptional circumstances", which is the sort of Orwellian phraseology that can mean whatever we want it to mean. The fact that Mr Gray has to go before that committee and almost plead for compassion is a ridiculous state of affairs, given his medical condition.

Tina McGeever: Although the health board might not think that Michael is exceptional, I certainly do.

The Convener: You have put a lot of work into that, Michael.

Nanette Milne: When we ask the cabinet secretary to consider the situation in Grampian, we should also ask her to consider the general concerns.

Margaret Curran: Will the committee press the cabinet secretary to investigate the matter?

The Convener: Yes—happily.

Rhoda Grant: There are issues to do with the clinical judgment of individual doctors. Obviously, Mr Gray's doctor has recommended a certain course of treatment, but he is being denied the opportunity to treat his patient as he would wish by people who are not clinicians. We should include that point in our letter to the health board, but we should also write to the Royal College of Physicians of Edinburgh and the Royal College of Radiologists because I think that their guidance on how doctors should operate is probably being overridden by administrators. I am not underestimating the problems that a health board faces in relation to new drugs, but this case involves something that has clearly been shown to work.

We should also flag up another important issue, which relates to the conflict between the public and private elements of the treatment. When the vast bulk of the treatment is available to someone else on the NHS, why should the whole amount have to be privately paid for in circumstances such as Mr Gray's? I am not saying that dealing with that issue alone would make the situation more equitable. A huge number of people might be unable to obtain the sum of £600 for a course of medication. However, the current practice seems to put up barriers when people are trying to do

something. If we could try to get a ruling on that practice, that might help some people, even if it did not help everyone.

The Convener: A series of issues has been raised. I hope that the petitioners found this process more transparent than the process that they have experienced in recent months.

We need to expedite the process at our end, not only because of the circumstances that the petitioners face, but because of the other people in Scotland who are in the same moral, financial and emotional dilemma.

To our petitioners, I say that I know that this has been a tough shift at your end—it has been tough for us even to hear some of what you have had to express today—but I hope that you have found the discussion constructive. We will pursue matters with the various individuals and organisations that have been mentioned as quickly as we can. We wish you well in the coming period.

Michael Gray: We appreciate the time that you have given us.

The Convener: We will take a brief break.

15:39

Meeting suspended.

15:45

On resuming—

Stewart Committee Report (PE1106)

The Convener: Our previous discussion was fairly lengthy because of the nature of the petition and the contributions from three non-committee members. I thank members for their patience and for allowing other members to make contributions. It was an interesting session.

PE1106 concerns the Stewart committee report, "Keeping Offenders out of Court: Further Alternatives to Prosecution". The petition, by Jamie Webster, calls on the Parliament to urge the Government to review those aspects of the report that relate to the rights of victims of crime to obtain information on the handling of their case. I have been alerted to the fact that there is a broadly similar petition in the system, PE899, which will probably come before us in February. The clerk suggests that we could consider PE1106 with PE899, although we can discuss PE1106 now if we like. I am in committee members' hands.

Nigel Don: I was probably not an MSP when PE899 was discussed. Have we already sought the opinions of the Scottish Government, the Crown Office and so on? If the questions that were asked about PE899 were essentially the same as the ones that we would ask about PE1106, is there anything that we can usefully do now other than defer consideration of PE1106 until we receive a response on PE899? Is there anything materially different about them?

Fergus Cochrane (Clerk): The committee might wish to consider whether it wants to write to the Scottish Government on the issues raised in PE1106 that may be relevant to PE899, which has to come back to the committee in February. The last update from the Scottish Government was that it was preparing amendments to the enabling regulations to reduce the time period to which PE899 refers. The committee could actively consider PE1106, but an option, at the conclusion of that discussion, might be to join future consideration of PE1106 with consideration of PE899 and to consider the responses that come back jointly.

Nigel Don: Forgive me if everyone else already knows this, but I am struggling with whether the issues in PE899 are a subset of the issues in PE1106, or vice versa.

Fergus Cochrane: The petitions are separate but on broadly the same issue.

Nigel Don: So they do not overlap much.

Fergus Cochrane: They overlap in the sense that they are both to do with the victim notification scheme.

The Convener: Most committee members will not know about PE899 either, because they are relatively new to the process. We are in the dark regarding many previous petitions.

Rhoda Grant: Would it be helpful if we were to write to the Scottish Government and the other organisations now in relation to PE1106, and then join the petitions together? If we leave gathering further information on PE1106 until February, it may mean that in February we will be writing again, which would slow up the process for the petitioners.

The Convener: That is quite a helpful suggestion. We could seek the views of the minister, the Crown Office and Victim Support Scotland. If we gather that information and put it together with the responses on PE899, we can discuss the issues simultaneously sometime in February.

Members *indicated agreement*.

Psoriasis and Psoriatic Arthritis (PE1109)

The Convener: PE1109, by Janice Johnson, on behalf of Psoriasis Scotland-PSALV, calls on the Scottish Parliament to urge the Scottish Government urgently to develop clinical guidelines on the diagnosis and treatment of psoriasis and

psoriatic arthritis; to develop national standards of care for people with such problems; and to define psoriasis and psoriatic arthritis as chronic conditions to be included on the list of conditions that are exempt from prescription charges. We have the background papers and the petition details in front of us. Do members have any suggestions about how we should deal with the petition?

Nanette Milne: I commend Janice Johnson for her tenacity and the amount of work that she has done on the issue. She has stayed in the public gallery all afternoon, waiting for us to deal with the petition. We have probably all been approached by her at some stage, requesting that we take the issue forward. It is worthy work.

Janice had a meeting with the Cabinet Secretary for Health and Wellbeing earlier this month, and we need to hear about the outcome of that meeting if that is possible. We should write to the Scottish Government on that issue. I would also like to find out how things are progressing as far as the guidelines from the Scottish intercollegiate guidelines network are concerned.

John Farquhar Munro: We could perhaps get some information from the University of Glasgow on how it is taking the work forward.

The Convener: Okay. We will seek specialist views in terms of clinical and academic research.

Rhoda Grant: The petition deals with issues that were raised in previous petitions, in that, depending on where someone lives, their treatment and diagnosis can vary hugely. I wonder whether we need to write to the Scottish Government about that again, to see how we can develop standards. Perhaps NHS Quality Improvement Scotland has something to do with it. Not every health board uses the same standards and people are treated differently depending on their health board area.

The Convener: Okay. On behalf of the committee, I thank Janice Johnson for her commitment to the issue. I hope that we can make some progress. We recognise the work that she is doing. A door has been opened on the issue of chronic conditions through the review of prescription charges. Although some complexities—to use a euphemism—still exist, let us see whether we can explore the issues and pursue some positive developments.

Are we agreed to write to the organisations that we have mentioned, seeking further information?

Members *indicated agreement*.

Foreign Teachers (Recruitment) (PE1110)

The Convener: Our final new petition today is PE1110, by Kevin O'Connor. The petition calls on the Scottish Parliament to urge the Scottish Government to review the policies, guidance and procedures that apply to the recruitment of foreign teachers and the right of recourse to investigate claims of discrimination. We have the background papers in front of us. Do members have any suggestions on how the committee should deal with the petition?

Rhoda Grant: I am a little puzzled about how we could take the petition forward. Because Scottish probationary teachers are offered a year's work in Scotland, probationary teachers from other areas are not guaranteed a year's work. I cannot see how that could be called discrimination. If we were to open the door to all foreign teachers who had a probationary period coming up, guaranteeing them a year's work, we would be flooded with requests. We are almost positively discriminating in favour of home-grown teachers, but we are not negatively discriminating against others in any way—I may not be expressing myself particularly well. I cannot see how we could offer the same guarantee to teachers from the rest of the world.

The Convener: In a sense, there is a process issue here. Rhoda Grant's comments might well be valid. However, I wonder whether, in order to get a fuller picture of the situation, we should still explore getting some information from the General Teaching Council for Scotland and the Government's education department, so that we can see where we are with the issue and identify the process for handling applications from folk who are outwith Scotland and the EU.

Nigel Don: I wonder whether we should be pressing the Government to find out whether it is up to speed, what our position is comparison with others in the EU and how we are changing the system to accommodate the world around us. I am with Rhoda Grant, in that we cannot expect to say that everybody from everywhere will suddenly have a guarantee of a place now. That is not a sensible rule to be asking for. However, is there equity in what is going on? The Government needs to scratch its head and ask itself whether it is playing fair.

The Convener: We have a couple of suggestions about the organisations with which we might explore the issue. We can keep the petition on the boil. After we get some responses, we will determine how best to respond to the petition. It seems that, as an e-petition, the petition attracted only a little dialogue, but let us see where we can get to with the information that we receive.

Current Petitions

Criminal Memoirs (Publication for Profit) (PE504)

15:56

The Convener: The first current petition is PE504, by Mr and Mrs James Watson. It calls on the Parliament to take the necessary steps to prevent convicted murderers or members of their families from profiting from their crimes by selling accounts of those crimes for publication. Written submissions have been made available to us. I invite suggestions on how to take the matter forward. There is a document—"Consultation on Making Sure Crime Doesn't Pay"—out for consultation at the moment.

Nanette Milne: The petition has been around for an extraordinary length of time, and hardly anything seems to have been done about it. We should perhaps press the Scottish Government to press the UK Government on the matter.

Rhoda Grant: Is that the correct protocol? Can we contact the Ministry of Justice about the matter ourselves? That seems more straightforward.

The Convener: We can write to the ministry to expedite matters. There is probably a reasonable consensus that we do not want individuals who have committed serious crimes to benefit—thanks to the nature of the media in our society—from those crimes. If it is a matter not just for the consultation document but for the UK Ministry of Justice and the Home Office, I am happy to write directly on the matter.

Members *indicated agreement.*

The Convener: We will write directly. We hope to get some clarity and a response on the matter.

Institutional Child Abuse (PE535 and PE888)

The Convener: The next two petitions relate to institutional child abuse. Petition PE535, by Chris Daly, calls on the Parliament to urge the Government, first, to make an inquiry into past institutional child abuse—in particular for children who were in the care of the state under the supervision of religious orders; and, secondly, to make an unreserved apology for said state bodies and to urge the religious orders to apologise unconditionally.

The second petition, PE888, is also by Chris Daly. It calls on the Parliament to urge the Government, in the interests of those who have suffered institutional child abuse, first, to reform the Court of Session rules to allow fast-track court hearings in personal injury cases; secondly, to review the implementation of the Prescription and Limitation (Scotland) Act 1973; and, thirdly, to implement the recommendations of the Scottish Law Commission report on the limitation of actions.

Members have copies of the written submissions relating to both petitions. Are there any particular views about how to deal with the petitions, which have been in the system for a wee while?

John Farquhar Munro: The issues have been well debated in the Parliament already.

The Convener: There is a suggestion that we could possibly close our consideration of the petitions. I ask Fergus Cochrane to keep us right: we can consider closing both petitions, but is one of them more—

Fergus Cochrane: The committee can close both, or it could keep one open and close the other. It might make sense to make the same decision in relation to both petitions. To an extent, they go hand in hand.

The Convener: Okay.

Nigel Don: There are many papers—I hope that I can remember this correctly from when I read them—but it seemed to me that the outstanding issue relates to the limitation and prescription periods.

The Scottish Law Commission published a report on the matter very recently—in December last year—so I do not think that we should just close the petitions at this point. We should probably write to the Government to ascertain what it intends to do with the SLC report. At that point, we may be in a position to say that we have been through every hoop.

16:00

The Convener: That is not an unreasonable suggestion. Let us see how the Government intends to respond to the report that has been published. Depending on the speed of its response to us, we should be able to deal with both petitions relatively quickly.

Vulnerable Adults (Medication) (PE867)

The Convener: PE867, from Hunter Watson, calls on the Parliament to provide adequate safeguards against vulnerable adults being given by surreptitious means unwanted, unnecessary and potentially harmful medication. Some members heard about the petition at a previous committee meeting. We have a number of written submissions and responses relating to the petition. Do members have views on the petition? My only strong view is that we need some time—a period

of 12 to 24 months—to judge the effectiveness of the system that has been put in place. I seek guidance from the clerk on that point, as I am not sure what the correct procedure is. Can we close the petition, but with the recommendation that information be supplied to us at a later date, or do we need to keep it open? It is awful early to make a snap judgment on the matter.

Nanette Milne: Is the new code of practice currently in effect, or has it still to be finally approved?

The Convener: I do not know.

Nanette Milne: I know that the petitioner has concerns about what is proposed in the code of practice. We should find out whether the code is in effect.

Claire Baker: There is some information in our papers.

Nigel Don: The letter from the health care policy and strategy directorate states that the code

"will be issued formally to the NHS in Scotland by the end of February."

Nanette Milne: It would be appropriate for us to ask the Government what it thinks about what is proposed and whether the code covers all the medical, legal and human rights issues that have been of concern to Mr Watson for a long time.

The Convener: That is helpful. Are members happy with Nanette Milne's suggestion?

Members *indicated agreement*.

Disabled Parking Bays (PE908, PE909 and PE1007)

The Convener: The next petitions will be considered together, as they all relate to traffic regulation orders and disabled parking bays. PE908, from Connie Syme, urges the Government to ensure that traffic regulation orders are applied to all disabled parking bays, to ensure that, where possible, they are used by registered disabled users only. PE909, from James MacLeod, on behalf of Inverclyde Council on Disability, calls on the Parliament to urge the Government to review the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 to allow for speedier provision and enforcement of such measures as dropped kerbs and disabled parking bays. The third and final petition, PE1007, from Catherine Walker, on behalf of greater Knightswood elderly forum, calls on the Parliament to prevent the improper use of disabled parking bays and to ensure that they are used by registered disabled users only.

I know that COSLA and the Scottish Government have met to discuss the issue. We may want to seek an update from the Government on that. The matter is on-going—the possibility of a member's bill on the issue is being considered. Preliminary work has been done on such a bill, although it has not yet been presented to a committee. As members have no further suggestions for action, we will write to both COSLA and the Government to seek an update following that recent meeting.

Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (PE934)

The Convener: The next petition to be considered is PE934, from Dr J W Hinton, on behalf of the metered parking organisation. The petition calls on the Parliament to urge the Government to review the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 so that local authority consultation on traffic orders is full, meaningful and democratic. Again, papers on the petition have been circulated to members. How do members wish to deal with the petition?

According to my notes, the petitioners have now met the Government to discuss the issues arising from the petition and possible amendments to the 1999 regulations. The petitioners' list of proposed amendments has been submitted to the Government and will be considered in any future review.

Do members agree that we close the petition on the ground that the issues raised are being discussed with the Government as part of a possible review process?

Members *indicated agreement*.

Foreign Languages Policy (PE1022)

The Convener: PE1022, from Dr Murray Hill, calls on the Scottish Parliament to debate the urgent need to make a step-change in strategy and vigorously promote foreign language learning and intercultural awareness in Scotland's schools, colleges and universities.

On a point of clarification, did we hear from this petitioner at a very early stage?

Fergus Cochrane: The petitioner has already given oral evidence.

The Convener: Okay. Did we not say at the time that we would seek the Scottish Government's views? Have we heard anything back from it?

Fergus Cochrane: The Government's response is attached to the papers. That is all that we have received.

The Convener: So the question for us is whether that response contains enough

information about the further development of a language provision strategy in various agencies.

Do members have any strong views about the petition?

Nanette Milne: I have not had time to digest all the accompanying information.

The Convener: I know. There is quite a volume of it. On that point, I should also draw members' attention to the additional paper submitted by Dr Murray Hill.

Nigel Don: I think that the issue that is raised in the petition is important, and obviously the petitioner has his own view on the matter. However, on a procedural point, given that we have asked—and have received a response from—the Government about the petition, can we legitimately go any further with it? After all, this is a policy decision for the Government, not the committee. We were asked to ask a particular question; we have done so, so that is it.

The Convener: That is a fair call. What do other members think?

Nanette Milne: I note that the Education, Lifelong Learning and Culture Committee is to hold evidence-taking sessions on issues relating to the curriculum for excellence. Is there any suggestion about how the petition might feed into that process? Could we suggest that that committee should seek evidence from the petitioner?

Rhoda Grant: We could copy the petition and some of the correspondence that we have received to the Education, Lifelong Learning and Culture Committee for information to ensure that it is aware of the petitioner's views. We could then close the petition and leave that committee to deal with the matter.

The Convener: That is reasonable. We have received the Government's response; a dialogue is taking place; and the Education, Lifelong Learning and Culture Committee is considering some of the issues raised in the petition. Of course, a petitioner is always free to resubmit a petition.

Fergus Cochrane: But there are limitations to that.

The Convener: Okay. I am not sure what more the committee can do, given that, as Nigel Don has pointed out, this is a policy issue for the Government and the Education, Lifelong Learning and Culture Committee.

Nanette Milne: Perhaps we could suggest to the Education, Lifelong Learning and Culture Committee that it consider taking evidence from the petitioner.

The Convener: We can make those recommendations and highlight the petitioner's constructive submission.

John Farquhar Munro: A tremendous amount of such activity is already going on in schools and colleges because of all the immigrants coming in. Classes are being set up all the time.

The Convener: We will refer the petition to the Education, Lifelong Learning and Culture Committee, highlighting the caveats that we have identified. We should make it clear that we are not underestimating the importance of this issue to, for example, our competitiveness over the next 10, 15 or 20 years at least. In that respect, we should suggest that the petitioner has made a positive submission and that the Education, Lifelong Learning and Culture Committee might consider taking evidence from him. We will now formally close the petition.

Fergus Cochrane: We are referring it.

The Convener: Sorry. I get my referrals and closures mixed up at this time of day.

Elderly People (Residential Care) (PE1023)

The Convener: The next petition is PE1023, from Dr H I McNamara, on behalf of the Highland Senior Citizens Network. I understand that we have received another letter from Dr McNamara, which has been made available for today's meeting in addition to the normal committee papers. The petition urges us to ensure that a greater proportion of residential care places for the elderly are provided and staffed by the statutory sector, particularly in rural areas. Again, members will have received the written submissions.

Do members have any suggestions on how we should handle the petition?

Rhoda Grant: My feeling is that a minimum number of care home places should be available in the public sector. If a private sector home closes down, the provision of facilities for the residents falls on the public sector. With apparently more and more private provision and less and less public provision, we are creating an imbalance and storing up problems for the future. We should write to the Government to ask it to assess what should be the minimum provision in the public sector and to issue guidance on that or to include the matter in its concordat with local government. This is a big issue in rural areas where there is not much provision. If a private care home closes down, there may be no alternative provision for miles and miles, so people may need to move far away from their home and family.

The Convener: Do members have any other suggestions?

Following on from the responses that we have received, one suggestion for action is that we ask what specific measures for improving care standards have been developed and put in place. That might be worth pursuing with COSLA, the Scottish Commission for the Regulation of Care and the Scottish Government. The issue is difficult for local authorities because it involves capital investment as well as revenue expenditure. Capital and revenue need to be synchronised if local authorities are to address such care needs or make available other social care provision.

Nanette Milne: I think that we should ask Scottish Care about the issue as well because it deals with the private or independent sector.

The Convener: Okay.

Elderly People (Provision of Care) (PE1032)

The Convener: PE1032, from Elizabeth McIntosh, on behalf of Renfrewshire Seniors Forum, seeks to improve care for the elderly at a local and national level and to improve the standard of care provision for the housebound elderly. Again, the papers have been made available for us.

It is suggested that we write to the Scottish Government to consider what measures are in place for improving care standards for the housebound elderly and to ask about its strategy for dealing with older people in Scotland. I know that we already have a broader strategy in Scotland, which I presume has been continued. The issue is to do with how we can put some of those measures in place.

Are there any strong views on the petition?

Nanette Milne: Should the petition perhaps be lumped together with PE1023, which we have just discussed? The petitions deal with similar issues, although one deals with the housebound elderly and the other is about those in residential care.

The Convener: We might be able to wrap the petition into consideration of the broader issue.

John Wilson: I think that we need to be careful to separate the care home issue from the issue of services for those who wish to reside at home. I would be loth to put the two issues together. Independently minded older persons who need support services so that they have the opportunity to reside in their own home are different from those who require to go into a care home. Some of the individuals who are affected by the issue might take exception to our considering the two issues together.

Nanette Milne: I am not sure that I agree.

The Convener: Fair enough.

Nigel Don: At the risk of disagreeing with my colleague—

The Convener: A split in the SNP.

Nigel Don: No, John Wilson is absolutely right that the petitions deal with different issues, but I suggest that the issues are, nonetheless, two sides of what is roughly the same coin. I would be worried if local councils did not have a strategy on how much of the different types of provision they should have. Both sorts of provision need to be available. The general issue that comes through to me is that local authorities need to have their eye on both types of provision, so I would be inclined to join the two petitions. However, we could ask the same question on each petition—that is not a problem.

16:15

John Wilson: I agree. I will try not to use the term "historic concordat with COSLA" in speaking about the services that local authorities provide in the voluntary sector. As I said, we should not just lump together the two petitions simply because we think that they fit together. Different issues arise for individuals who wish to reside in their home and for those who wish to opt for a care home, and those issues should be addressed differently. In light of comments that have been made by the Cabinet Secretary for Finance and Sustainable Growth, it would be appropriate to separate the issues to see what answers are given on them. It might also be appropriate to write to COSLA to ask for its understanding of local authorities' remit and intention in relation to delivering the services.

The Convener: I am more inclined to accept John Wilson's suggestion—I acknowledge that John Wilson and Nigel Don are not going to fight over the issue. John Wilson's suggestion is probably the best one at present, to try to get a response. Do members accept the recommendation from John Wilson?

Members *indicated agreement*.

Ferry Service (Gourock to Dunoon) (PE1035)

The Convener: The next petition is PE1035, from John Rose, which calls on the Parliament to urge the Government to withdraw direct and indirect financial support for Caledonian MacBrayne on the Dunoon to Gourock ferry service. Do members have any views?

Rhoda Grant: The Transport, Infrastructure and Climate Change Committee is holding an inquiry into ferries, so it might be worth referring the petition to that committee for it to consider as part of its inquiry.

The Convener: Agreed. Do we wish to write to the Government to seek views on the points that the petitioner raises? That would not be inappropriate.

Rhoda Grant: We could do that, as long as it would not hamper our referring the petition to the Transport, Infrastructure and Climate Change Committee.

Fergus Cochrane: The committee could write to the Government and refer the petition.

The Convener: Shall we do both those things, then?

Members *indicated agreement*.

Employment Opportunities for Disabled People (PE1036 and PE1069)

The Convener: Next, we have two petitions, PE1036 and PE1069. PE1036, from John Moist, on behalf of the Remploy consortium of trade unions, calls on the Parliament to urge the Government, in partnership with Remploy and other sheltered workshop employers, to promote employment opportunities for disabled people by reserving local authority contracts to supported businesses, as permitted by article 19 of the EU public procurement directive. PE1069, from Clive McGrory, calls on the Scottish Parliament to urge the Government to encourage employers to provide homeworking opportunities for people with disabilities that prevent them from accessing the workplace. Papers have been circulated to members. Do members have any views?

Nanette Milne: The Equal Opportunities Committee in the previous session of Parliament carried out a detailed inquiry into disability. That was fairly recently. The petitions could be referred to the Equal Opportunities Committee to be considered as part of any follow-up work that it might do on that inquiry.

The Convener: Another issue is that most of the framework in relation to Remploy is in UK employment legislation and the Disability Discrimination Act 1995, but the implications for services, support and employment for disabled people are within the powers of the Scottish Parliament and Government—it is another one of those crossover issues. I know that there has been a lot of controversy about Remploy and that the UK Government has made its final decision on that. Do members have any views about how to deal with the specific point about how to encourage take-up in employment for individuals with disabilities? There is a question about what competence we have to ask our Government to deal with the issue, given its role in relation to Remploy.

Nigel Don: The issue is a crossover one. I speak as a long-standing fan of Remploy, which is a business with which I used to do business. Perhaps we should simply ask the Government, particularly in light of recent disputes and possible resolutions, where it stands on the issue and what is within its competence. Perhaps we can ask the Government to clarify what it thinks it is responsible for and what its scope of action is.

John Wilson: I am conscious that COSLA and the local authorities also have a role. I am minded of Glasgow City Council's contracts with Blindcraft and the preferential treatment in awarding contracts under European legislation that Glasgow uses for that procurement. The Remploy issue is confounded by the fact that it is a UK Government decision, but we should be getting the local authorities to consider all the possibilities when they award procurement contracts. We could consider the wider situation rather than just the Remploy issue.

Rhoda Grant: A fair amount of work was done on public procurement and how social enterprise could work with the public sector. We perhaps need to ask the Government where that is and what guidance has gone out to local authorities and Government agencies. If the Government made it easier for social enterprise and organisations such as Remploy to bid for work when it procured services, that would create a bit of stability for them.

Nigel Don: In the papers for the petition, there is a letter from Hilary Third, the head of the disability equality team in the Scottish Government. I do not want to be disparaging about the response, but it is a statement of what the law vaguely is. I would hope for a positive statement from the Government on what it thinks that it can and cannot do rather than a bland statement of the law, which takes us nowhere.

The Convener: So, Fergus, with your eternal wisdom, can you distil those views into a coherent strategy for action?

Fergus Cochrane: I think so.

The Convener: Okay, so will we accept the recommendations that members have made?

Members *indicated agreement*.

Disabled Parking (PE1038)

The Convener: The next petition is PE1038, from Marjory Robb, requesting adequate provision by local authorities of disabled parking spaces for blue badge holders. The information on the petition is in front of us. Are there any comments on the petition and how we should deal with it?

Nanette Milne: I know a little about the system of blue and green badges in Aberdeen. I notice that the disability advisory group thinks that everything is working well. I know that group well and know that, if things were not working, it would certainly let the council know about it. I do not think that there is anything further for the committee to do other than close the petition—unless we wanted to ask the council to communicate with the petitioner to explain the situation in Aberdeen.

The Convener: Do we accept those recommendations?

Nigel Don: I endorse Nanette Milne's view. The Aberdeen folk are pretty vociferous, and it looks as though the green badge system works well. We should commend it. If there is some way of telling the rest of the world that the system seems to work, perhaps we can pass some good news around the country.

The Convener: Do we agree the recommendation to close the petition but also to invite Aberdeen City Council to liaise with the petitioner to clarify the blue and green badge scheme?

Members *indicated agreement*.

Cancer in Scotland Strategy (PE1039)

The Convener: The next petition is PE1039, from Cancer Research UK, which urges politicians to plan now for the future of cancer services—we have just had a substantial discussion on the impact of cancer on an individual. The petition calls on the Government to update the "Cancer in Scotland: Action for Change" strategy from its current end date of 2011 to 2020 and beyond.

I understand that the Government is considering how it wants to complement existing policies on cancer in Scotland, and I hope that that work can be taken forward.

Nanette Milne: I am co-convener of the cross-party group on cancer. The cancer strategy was discussed at the group's last meeting, at which there was a general feeling that things are moving forward. Cancer Research UK was happy with the progress, so I doubt whether there is any need for us to continue with the petition.

The Convener: Do we accept the recommendation to close the petition?

Members *indicated agreement*.

Physiotherapy Graduates (Employment) (PE1044)

The Convener: The next petition is from Kate Mackintosh, on behalf of student members of the Chartered Society of Physiotherapy in Scotland. It calls on the Parliament to investigate the merits of extending the one-year job guarantee employment assistance for newly qualified nurses and midwives to include newly qualified physiotherapists in Scotland, with particular reference to the benefits for patient care. The written submissions are available to us. Do we want to take any particular action on the petition?

Nanette Milne: I do not want to hog the meeting, but I think that this is an important issue. It seems to be fairly obvious that there is a lack of posts for those in the more junior ranks of physiotherapists. That will eventually lead to problems because, as the more senior people retire, no new people will be feeding into the system. This extremely important issue does not apply just to physiotherapists. Kenryck Lloyd-Jones of the Chartered Society of Physiotherapy makes some good points, which should be brought to the Government's attention fairly forcibly.

The Convener: We should also draw the petition to the attention of the national solutions group.

Land Reform (Scotland) Act 2003 (PE1061)

The Convener: The final petition is from Mr and Mrs Mark J Lochhead and Mr and Mrs Henry McQueen Rankin. It calls on the Parliament to urge the Government to ensure that measures that are taken by communities to tackle antisocial behaviour in urban residential areas are not restricted by the duty of the local authority to uphold access rights under the Land Reform (Scotland) Act 2003. We have received the papers on the petition and we have heard oral submissions. I am in the committee's hands: how do we want to deal with the petition?

Nigel Don: Forgive me, convener—I, too, seem to be piling in rather often. I met this issue in a previous incarnation, not in or near the fields of East Renfrewshire but in a housing estate in the west of Dundee, where there was a public footpath that needed to be closed but the council said that it could not be closed, so round the houses we went, quite literally.

Could we ask the Scottish Government not to review land reform but to review the specific issue of rights of way in circumstances where a right of way might risk causing an antisocial behaviour problem? It might just need one of those specific bits of legislation—which, generally speaking, we abhor—that are required for particular cases.

Rhoda Grant: I agree. The right of access that the petition covers existed so that people in the area could get behind their houses. That should not be a right of way for all comers. The access code just needs a wee bit of clarification. It is not

beyond the wit of man to find words to sort out the problem and give proper guidance to councils.

The Convener: The petitioners have raised a number of details that are contained within the 2003 act, so we should encapsulate those in the letter that we write to the Government about the impact of the act and what it means for guidance for local authorities. The enforcement is obviously difficult for some people.

John Wilson: Did we not agree to seek advice from COSLA as well? If so, have we received a response?

The Convener: I will write a letter saying, "Due to the historic concordat that has now been agreed, I would hope that you can give me a speedy"—

John Wilson: I said that I was loth to use that phrase, but I see that you are not.

The Convener: Oh no—I like grand words.

That is helpful. Hopefully, we will get a response from COSLA this time.

New Petitions (Notification)

16:29

The Convener: The committee is invited to note the new petitions that have been lodged since our last meeting. They will be timetabled to come before us for consideration. As members have no comments, are we agreed that we note the new petitions?

Members *indicated agreement*.

The Convener: I therefore conclude today's meeting. We will meet next on Tuesday 29 January.

Meeting closed at 16:29.

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