The Committee will meet at 9.30 am in Committee Room 1, to consider the following agenda items:

1. **Aquaculture Inquiry (in private):** The Committee will consider possible areas of questioning for witnesses.

2. **Item in Private:** The Committee will consider whether to take agenda item 4 in private.

3. **Aquaculture Inquiry:** The Committee will take evidence as part of its inquiry into aquaculture from—

   - David North, Director for Government and Industry Affairs, Tesco
   - Jeremy Hooper, Lead Technical Manager, Fish and Poultry, Tesco
   - Allan Wilson MSP, Deputy Minister for Environment and Rural Development

4. **Aquaculture Inquiry:** The Committee will consider evidence taken at Phase 2 of its inquiry into aquaculture.

*Not before 11.30 am*

5. **Subordinate Legislation:** The Committee will consider the following draft affirmative instruments—

   - The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2002.
6. **Highlands and Islands Ferry Services:** The Committee will consider a reporters’ paper on the progress of its work into Highlands and Islands Ferry Services.

7. **Public Petitions:** The Committee will consider the following public petitions:

   - **PE 421** by Mr Alasdair Nicholson on Road Equivalent Tariffs.
   - **PE 425** by Mrs Anne-Marie Glashan on the siting of mobile phone masts.
   - **PE 357** by Aberdeen City Council on Investment Transport Infrastructure.

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The following public papers are relevant for this meeting:

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<tr>
<th>Description</th>
<th>TE/02/17/1</th>
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<tr>
<td>Executive response to the Committee’s Phase 1 Report on its inquiry into aquaculture</td>
<td>TE/02/17/1</td>
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<tr>
<td>Covering note on the Scotland Act 1998 (Modifications of Schedule 5) Order 2002 (Agenda Item 5)</td>
<td>TE/02/17/2</td>
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<td>Copy of the Order (plus Executive note) (Agenda Item 5)</td>
<td>TE/02/17/3</td>
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<td>Covering note on the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2002 (Agenda Item 5)</td>
<td>TE/02/17/4</td>
</tr>
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<td>Copy of the Order (plus Executive note) (Agenda Item 5)</td>
<td>TE/02/17/5</td>
</tr>
<tr>
<td>Reporters’ paper on the progress of work into Highlands and Islands Ferry Services. (Agenda item 6)</td>
<td>TE/02/17/6</td>
</tr>
<tr>
<td>Covering note on petition PE 421 by Mr Alasdair Nicholson on Road Equivalent Tariffs (Agenda item 7)</td>
<td>TE/02/17/7</td>
</tr>
<tr>
<td>Copy of the petition (Agenda item 7)</td>
<td>TE/02/17/8</td>
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| Covering note on petition PE 425 by Mrs Anne-Marie Glashan on the siting of mobile phone masts.  
* (Agenda item 7) | TE/02/17/9 |
| Copy of the petition  
* (Agenda item 7) | TE/02/17/10 |
| Covering note on Petition PE357 by Mr Douglas Paterson on behalf of Aberdeen City Council on Investment Transport infrastructure  
* (Agenda item 7) | TE/02/17/11 |
| Copy of the petition  
* (Agenda item 7) | TE/02/17/12 |
22. The Committee believes that, in the context of this inquiry, it is appropriate to use the terms assimilative capacity and environmental capacity, rather than the term carrying capacity.

The Executive would agree that these terms (which are used by ICES, for example) provide a useful distinction between two related, but distinct, elements of the industry's impact on the environment.

28. The Committee considers that there is an urgent need for better research into the assimilative capacity of marine coastal waters. It is the Committee's view that this research should focus on the determining scientific factors, including nutrients and therapeutants. The Committee particularly welcomes the proposed inclusion of sea lice in the determination of assimilative capacity.

The Executive, in conjunction with the CEC, is funding work at FRS on the wider criteria that may be used in determining the carrying capacity of the environment for both shellfish and finfish aquaculture. There is also work underway at FRS, funded by the Executive, to determine the effect of fish farms on the distribution and spread of sea lice larvae and the implication of infection on wild fish.

The Committee also mentioned, at paragraph 24, a desire for work to be carried on a loch and regional basis. The Scottish Executive has undertaken a large scale modelling exercise at the region by region level. This was done both for EU legislative requirements and for wider international agreements to which the UK is party, notably the OSPAR Commission. This modelling exercise examines all anthropogenic inputs, including wastewaters, sewers, river runoff (including diffuse agricultural pollution) and fish farms. FRS Aberdeen, jointly with the University of Hamburg, has undertaken the project and we currently await the final report.

At a local level of investigation, the Executive has also commissioned FRS Aberdeen, together with SEPA, to undertake a “hot-spot” analysis of local conditions relating to individual loch sites. This work is being carried out in ten sites across Scotland, covering a range of loch types and levels of current usage by aquaculture. An analysis of the effects of nutrient inputs will be produced in July/August this year.

29. The Committee considers that all the factors referred to above [paragraphs 19-27] are important considerations in determining the capacity of the marine environment to accommodate aquaculture without unacceptable impacts. However, in the view of the Committee, the concept of assimilative capacity should be more appropriately restricted to biological and chemical parameters so that a scientific modelling approach can be applied to its determination. Issues such as amenity and aesthetic considerations which, while being no less
important, fall within the wider definition of *environmental capacity*, should be taken account of within the locational guidelines and subsequently within an integrated approach to the management of environmental impacts within the coastal zone.

The Executive would agree that, in principle, assimilative capacity should be restricted to biological and chemical parameters, including sea lice. However, this will be considered further as the work to scope future research is progressed.

Amenity and aesthetic considerations will be taken account of through the revised Locational Guidelines, and, in due course, following the transfer of planning powers to local authorities, through an NPPG.

34. The Committee considers that the introduction of a blanket moratorium on further aquaculture developments would not be beneficial to the industry or to the environment. However, the Committee believes that there are locations in which further development should not take place. The Committee therefore recommends that a more selective form of moratorium should be implemented. Guidance for the imposition of a more selective moratorium already exists in the form of the locational guidelines and the Committee recommends that these guidelines, once revised, (as explained below) should be used to regulate development in a more precautionary manner. The Committee further recommends that the Executive urgently examines the location of existing farms and identifies those farms that are inappropriately sited. Negotiations should be established with those farms, with a view to identifying mechanisms that will enable these farms to be moved to more appropriate sites on an urgent basis.

The Executive agrees that the review of the Locational Guidelines provides a further opportunity to look very carefully at the categorisation of sensitive areas around the Scottish coast. In addition, precaution may be applied in a number of other ways, such as the setting of parameters used in modelling and category thresholds.

On the question of relocation, the Executive welcomes the willingness of all involved to consider this issue in detail and as a matter of some urgency. Exploratory discussions are underway within the Executive to identify the "drivers" for relocation and the mechanisms by which it might be achieved. This is likely to be a major and complex undertaking which will require careful handling.

To ensure widespread support, and to justify the significant expenditure that may be involved, relocation policy must be on a scientifically sound basis. Initial discussions have shown that before identifying sites for possible relocation we must first answer a number of fundamental questions, for example:

- what do we mean by "an inappropriate site" (risk to wild fish from sea lice, escapes, disease, and possibly other environmental factors) ?
- having identified the "drivers" how far must a farm be moved to have a mitigating effect? This is likely to be different for each "driver".
what monitoring or surveillance is required before and after relocation to ensure its success?

Further scientific thought is currently being given to these and other questions, after which we will widen the discussion to include the other key regulators, industry and other stakeholders. There are a number of fora through which these discussions might be progressed, including the Tripartite Working Group and the Highlands & Islands Aquaculture Forum.

Once we have a basis upon which to consider relocation it may be that the first step should be to 'pilot' the initiative in a small number of areas and evaluate the effects.

42. The Committee welcomes the Executive's intention to review the locational guidelines and considers that the guidelines should be made more streamlined and transparent. The Committee also recommends that, in this review, the guidelines should be widened and strengthened in their approach to take full account of:

- the assimilative capacity (including sea lice) of sea lochs and other coastal waters;
- the impacts of fish farming on other users of coastal waters;
- the potential for relocation of inappropriately sited fish farms,
- the need for differentiation between the impacts of, and scientific risks associated with, differing finfish species;
- the relatively benign environmental nature of shellfish farming;
- the need for better integration of shellfish farming and finfish farming; and
- the relationship between locational guidelines and the current planning system.

43. The Committee considers that the implementation of appropriately revised locational guidelines, together with the development of the forthcoming strategic framework for aquaculture, will assist in providing clear guidelines for all those associated with the industry. This is essential if sufficient guidance is to be given to participants in the current interim planning regime.

The Executive considers that the locational guidelines are a planning tool and as such they should advise on the appropriate siting and scale of fish farming in a particular area. This will require a consideration of the types of fish farming and the technology and methods which are available as state-of-the-art and due consideration of other users. This should be distinguished from the regulation of the activities on a farm, which have likely environmental impact and specifies the standards that require to be met in terms of method of operation, disease control or nutrient/chemical discharge to protect the environment.

The Committee’s comments will be taken into account in the current review of the Locational Guidelines. They will continue to reflect guidance on assimilative capacity and the differing needs of finfish and shellfish farming, and will be complemented by other regulatory mechanisms to deal with non-planning aspects, for example, disease control. Determining the assimilative capacity of sea lice will be looked at, but it may be very difficult to apply. Revised guidelines should be available in the autumn and will thereafter be regularly updated. The Executive agrees that when revised
Locational Guidelines and a strategic framework are in place we will have a very comprehensive and transparent regime to assist the future development of the industry.

48. Whilst the Committee welcomes the review of locational guidelines, it views this approach as a precursor to ICZM. The Committee believes that the longer-term objective should be full implementation of ICZM in Scottish coastal areas and urges the Executive to take steps to achieve this.

The European Commission will publish shortly a Recommendation on ICZM. Once approved by Council, it is anticipated that this will call on Member States to carry out a national stocktaking as the first stage towards developing a national strategy for ICZM. The Marine Stewardship Report, published by the United Kingdom Government on 1st May, committed the UK to implementing the Recommendation.

In addition, the Scottish Coastal Forum exists to encourage a sustainable and holistic approach to the management of Scotland’s coasts. The Forum is currently developing a strategy for the integrated management of these coasts, and this will provide a useful basis for implementing the EU Recommendation.

However, ICZM will need to accommodate not just aquaculture, but the whole range of coastal users. The Locational Guidelines, and their successors, though drawn up with the specific needs of one sector in mind, take account of a range of coastal use. We believe this will permit smoother integration into the ICZM mechanism in due course.

54. The Committee strongly recommends that, in the interests of the aquaculture industry, the regulators and the environment, there should be an urgent transfer of planning powers for fish farm developments from the Crown Estate to local authorities. The Committee therefore urges the Executive to reconsider the potential for the inclusion of the transfer of these powers within the Water Environment and Water Services Bill. At the very least, the Committee urges the Executive to ensure that the scope of the Bill is not so narrowly constructed as to prevent amendments on this subject at Stage 2 of the process.

The Executive remains committed to introducing the necessary controls, and is aware of the widespread interest in the issue. Against this background, and taking note of the Committee’s view, the possibility of including such powers in the Water Environment and Water Services Bill has recently been carefully re-examined.

However, as was spelt out in the Executive’s evidence on 9 January and the letter of 18 January 2002 from the Minister for Social Justice to the Committee, the substantial nature of the changes to the planning regime would significantly add to the time scale and delay the delivery of the Water Environment and Water Services Bill. In addition, planning controls focuses on amenity and other issues, rather than exclusively on environmental impact, and adding them would substantially broaden the scope of the Bill. It thus remains the Executive’s view that this Bill is not the right vehicle to transfer powers.
We believe that a Planning Bill would be a more appropriate legislative opportunity, and hope that such a Bill will be available in the next Parliament. However, it will, of course, be for the new Scottish Cabinet to prioritise its legislative programme.

55. The Committee also welcomes the intention of the Executive to produce an NPPG once the planning powers are in place, and recommends that the development of an NPPG should also proceed as a matter of urgency. The Committee considers that such an NPPG should also be supplemented by the production of Development Plans at a local level, thereby ensuring both national consistency and a degree of local flexibility. It is vital that such guidance should also be based on the principles and practice of ICZM as recommended above. The Committee welcomes assurances from [the then Minister for Social Justice in his letter of 18 January] that training and resource needs will be considered as proposals are developed.

National Planning Policy Guidelines for Marine Fish Farming would need to follow the introduction of planning controls. This is also the case with development plans. The Executive’s consultation paper on planning controls, issued in July 2000, envisaged that development plans should form the statutory base for aquaculture developments, and that following the introduction of controls authorities would work towards the incorporation of relevant policies in these plans. However, primary legislation would be needed to extend the scope of development plans below the low water mark for the purpose of fish farming.

The Locational Guidelines which will be regularly updated, will form the basis for an NPPG on marine fish farm developments in due course. ICZM principles will also be borne in mind.

The Executive is keen to ensure that local authorities have appropriate expertise and resources to undertake the necessary work associated with administering the planning function. We envisage that applications for planning permission would be accompanied by an appropriate fee, the level of which would require to be subject of further consideration as proposals are finalised.

57. The Committee recommends that existing leases should be brought within the new planning regime using a combination of natural expiry of lease dates, together with a final cut-off date within which all leases must comply with the new arrangements. As noted above, the Committee also urges the Executive to undertake a review of existing leases in order to identify farms that are currently inappropriately sited. Having identified these farms, the Committee recommends that the Executive brings forward proposals which would enable these farms to be moved on a more rapid timescale than would otherwise happen by relying on the natural expiry of leases for these farms.

The Executive’s 2000 consultation paper on transfer of powers offered either a phased introduction linked to expiry of leases, or a cut-off date. Responses to this point supported controls over existing developments (36 out of 51 respondents). The Committee’s view will be taken into account in our further pre-legislative consultation.
In the meantime, our consideration of the opportunities for relocation of inappropriately sited farms should address the Committee's other concerns. In addition, the current process to renew existing consents as they approach expiry provides a mechanism to consider whether the environmental effects of a farm are sufficient to justify refusal, and cause the farmer to seek an alternative location.

59. The Committee considers that the current thresholds are appropriate, but recommends that consideration should be given to the requirement for environmental studies of a more limited nature, in those instances where the implementation of a full EIA is not required.

The existing EIA Regulations allow relevant authorities to request further environmental information in support of applications for developments, where the proposed change exceeds the thresholds. For those applications not subject to EIA Regulations, it is assumed that the development will not have a significant impact on the environment and therefore no further information would be requested.

61. The Committee endorses the proposal to designate SEPA as a "competent authority" in respect of the EIA regulations. The Committee further recommends that the EIA for aquaculture should be standardised and made more rigorous by requiring mandatory screening and scoping, consideration of the cumulative and wider environmental impacts of aquaculture and in respect of the information required by SEPA for decisions concerning environmental consents.

The designation of SEPA a relevant authority under the EIA Regulations will remove the current duplication of effort and improve liaison and co-ordination between the regulators. The other intention is to more closely align the application forms to ensure standardised information is provided in the first instance to support the scoping and screening of applications. This approach will be built into the EIA process thereby ensuring that a single dossier of information is produced which can meet the needs of all the relevant regulators. As regards cumulative and wider environmental effects this will also be more effectively addressed when SEPA is a full partner in the assessment process.

63. The Committee endorses the proposal to introduce a process of parallel applications for both consents, although it would welcome clarification of the status of an application where one consent is approved and the other is refused. The Committee also endorses the proposal that environmental statements should be submitted to both authorities, with a single dossier of evidence provided simultaneously.

The consent which is approved stands and the one which is refused does not. The practical implication of this is likely to be that the applicant will not be able to proceed with the proposed development.
67. The Committee strongly endorses the intention of the Executive to regulate the process of fish farming, rather than merely the discharges. The Committee also welcomes the proposed ability of the regulator to impose licence conditions or comprehensive general binding rules on a nation wide basis, thereby ensuring consistency between operators.

68. The Committee endorses the proposal to use the BAT approach to both licence conditions and the application of general binding rules. It is the majority view of the Committee to recommend that there should be provision in the Water Environment and Water Services Bill to establish a BAT regime, with powers to make regulations requiring Best Practice to be adopted by all fish farmers. By adopting this approach Best Practice would be promoted through the attachment of conditions to licences or via the application of general binding rules rather than leaving the application of BAT to the industry through its own Codes of Conduct and Practice.

69. The Committee recognises that this may well require further effort and resources from the industry and therefore recommends that the Executive examine how it might "recognise" those operators who demonstrate consistent compliance with Best Environmental Practice.

As we currently envisage the Water Environment Bill and its subordinate legislation, account could be taken of industry Codes of Practice. On the one hand, these are likely to have relevance to the shaping of General Binding Rules. On the other, SEPA will be given wide powers to set conditions on water use licences. It is certainly conceivable that SEPA could set as a condition adherence to an industry Code of Practice (either in full or in part). This would afford recognition to those who already adhere to such Codes, as such operators might not have to undertake further work to comply with licences in respect of activities covered by the Codes. Such ideas will be developed during a full consultation process. However, such measures will not remove the need for some continuing surveillance by SEPA, and others such as FRS, to ensure compliance.

71. The Committee strongly recommends that in order for the proposed regime to be successful, there should be more robust monitoring and auditing of planning conditions and water use licences. The Committee has not received sufficient evidence on the question of resources to make an informed judgement as to what further resources SEPA may require, and would welcome more detailed information from SEPA before it considers whether to endorse any bid for additional funding.

The issue of resources for SEPA will be considered as the process is developed.

73. The Committee endorses the proposal to regulate the reporting of escapes. However, the prevention of escapes is the solution to the problem of escapees. The Committee considers that the principal onus rests with the industry to reduce the number of escapes. Allied to this, the Committee recommends that the Executive and other regulators should take a greater role in promoting the use and development of Best Available Technology and Best Practice in order to minimise the problem. The Committee further recommends...
that the Executive examines alternative measures for reducing the impact of escaped farmed salmon on wild salmon stocks through a process of cost benefit analysis. These measures should include tagging farmed fish to enable sources of escapes to be traced and associated penalties for escapes, reproductive sterility of farmed fish to eliminate the genetic potential of escaped fish and measures for recovery of escaped stock.

The Executive agrees that it is for the industry to ensure that escapes are prevented, and the introduction of an industry Code of Practice on Containment in 1999 was to be welcomed. Site specific containment and contingency plans are now also required in support of all fish farm application.

Legislation to require reporting of escapes entered into force on 10 May 2002. In following up reports of escapes, the Executive will consider with fish farm operators and other relevant local interests the feasibility of recovery action.

The concept of tagging has certain attractions, but until now has, been constrained by the limitations of the technology (metal tags could cause difficulties at processing) and by industry practices i.e. the manner in which smolts are distributed. However, new techniques are being developed, which might allow the source of individual escapees to be identified. At present there are no powers to require techniques such as tagging, but this is likely to change with the advent of new EC food hygiene and environmental legislation. There may also be human health considerations associated with such techniques.

The production of sterile farmed fish could offer protection from genetic impacts; methods have been developed. However, further research is needed on protection characteristics, disease susceptibility and the marketing aspects, as well as the ecological implications of escaped sterile salmon. The production of such fish is one of the issues likely to be reviewed over the coming months by the NASCO Standing Committee on the Precautionary Approach, in which the Executive participates.

78. On balance, the Committee supports the retention of AMGs and AMAs, although it is recommended that the Executive should take all available steps to allow AMAs to take on a broader role with a wider membership. The Committee strongly recommends that the workings of AMAs should be transparent, regardless of claims of commercial confidentiality, and that this should be achieved through a public register of information. Furthermore, the Committee considers that AMAs should receive statutory underpinning with compulsory membership for all operators.

AMAs and AMGs are still at an early stage of development and will continue to evolve. The Executive judges that, at present, it should be encouraged as a voluntary mechanism, although we will keep the process under review and would consider legislating if the voluntary approach falters. Local Area Management Groups can extend membership to other local interests and are encouraged to do so.

Commercial confidentiality applies to wild fish interests as well as fish farmers, and cannot be ignored. However, it is in the interests of all parties in AMGs to make as much information as possible publicly available, and they are again encouraged to do...
so. We are in the process of appointing a National Development Officer for the Tripartite Working Group, and delivering improved reporting of information will form part of their function.

82. The Committee believes that there is a valid argument for a joined up approach to the control of sea lice, with a requirement on SEPA to manage sea lice as well as assess the impact of sea lice treatment methods. However, there is an equally valid argument for the separation of the sea lice and chemical management regimes, due to the conflict of interest that this creates for the regulator. On balance, the majority of the Committee favours the separation of the two regimes. It recommends that the management of sea lice numbers should be incorporated within the Diseases of Fish Act and that this should be the responsibility of Fisheries Research Services (FRS). The regulation of therapeutants used in the treatment of sea lice should remain within water pollution legislation and be the responsibility of SEPA.

83. The Committee is conscious that this proposal is not without difficulties and therefore recommends that formal arrangements should be drawn up between the FRS and SEPA which sets out the methods of operation between these regulatory authorities in order that a culture of co-operation and co-ordination can be established.

88. The Committee acknowledges that the current scientific evidence regarding the benefits of imposing maximum sea lice burdens is still unclear. However, the Committee believes that rather than simply providing a requirement for monitoring of lice numbers by the regulatory authority, the Diseases of Fish Act should be amended to empower regulators to impose maximum sea lice burdens, thereby controlling levels of infectious larvae within sea lochs. By adopting this approach, the Act would allow for the introduction of maximum sea lice burdens, if and when research into epidemiological modelling demonstrates that the establishment of critical burdens would be possible and beneficial.

First of all, it should be noted that the Committee's statement (at paragraph 80) that "the Executive and SEPA propose that the management of sea lice should be regulated through the Diseases of Fish Act" does not correctly reflect the evidence which was given. The Executive has not yet formed a definitive view on this issue. In addition, any proposal to amend the Diseases of Fish Act, were it thought to be appropriate, would need to be considered by the Executive against competing demands on the legislative programme.

It may be an option, but certain fundamental questions need to be addressed. For example, on what basis would "maximum sea lice limits be set", and what action would the authorities take in the event the limits were exceeded?

In the meantime, the Executive believes that the other initiatives - the AMA process, widespread adoption of strategic sea lice management techniques, and steps by SEPA to encourage best practice - should begin to have an impact on sea lice numbers, and we will be monitoring their cumulative effect.
90. The Committee views synchronised production, fallowing and disease treatment as crucial management tools in the context of sea lice control and the control of other environmental impacts, and recommends that the Executive and other Regulators make all efforts to encourage synchronised management. The Committee also welcomes the Executive proposal that SEPA should be empowered to grant consents for the use of sea lice treatments in whole sea loch systems.

91. The Committee recommends that a requirement for the use of synchronised management procedures should be incorporated into the regulatory framework and applied through either the water use licences or general binding rules described above. The Committee recognises that this approach will pose problems for small operators and strongly recommends that the Executive and other regulators take all available steps to assist smaller operators in complying with this measure. The Committee further recommends that this issue should be addressed through the provision of a phasing in of the requirement for synchronised management, in order to allow smaller operators time to adapt.

The powers to be given to SEPA under the proposed Water Environment & Water Services Bill and its subordinate legislation will permit it to set a broader range of licence conditions than at present, as well as to require adherence to General Binding Rules. Both of these tools will be used in the context of a more thorough water use planning system than exists at present. The changes to be ushered in by the new legislation could therefore be used to encourage synchronicity, and to build synchronicity into planning at an early stage.

However, as the Committee recognises, some operators will have difficulty complying due a lack of site options. Such difficulties have already arisen in some of the TWG AMA negotiations. Some small operators are developing a role as contractors to larger concerns, and in this capacity they could be brought more easily into synchronous arrangements.

The Executive agrees that, over time, synchronised production should become a standard operating practice across the industry. It already is in some places through the development of AMAs. The TWG will continue to assist this process as should the exercise examining the relocation of fish farms. Progress will be dependent on a pragmatic approach, and on co-operation between the regulators, industry and local stakeholders. Achieving synchronicity in some areas may mean trying to provide an operator with additional site options, without increasing production capacity.
SCOTTISH EXECUTIVE COMMENTS ON SOME OTHER ISSUES RAISED IN THE REPORT

At paragraph 15, the Committee mentions developments in Europe.

The EC will be publishing its CFP reform proposal in due course, which, it is anticipated, will include some new initiatives on aquaculture. The Executive will keep in close touch with these developments and ensure that they take account of Scottish circumstances.

At paragraph 32, the Committee discusses the need for further research on the occurrence of organisms causing shellfish poisoning.

The Scottish Executive has let two contracts to internationally recognised experts on the question of the occurrence of harmful algal blooms. These reviews are to be based on an assessment of the impact of aquaculture in Scotland based on international experience of such effects. The potential for aquaculture to have an impact on algal populations in the wider environment of the West Coast will be examined by one group, whilst the other will examine the potential for more specific loch-based effects on algal communities. Both contracts will conclude in July/August of this year.

Scottish Executive Environment and Rural Affairs Department
May 2002
Introduction

The purpose of this paper is to update the Committee on the tendering of the Highlands and Islands ferry services contract. In addition, the paper contains proposals from the Committee reporters for their future work and for future Committee consideration of the matter.

Background

On 23 January 2001 the Minister for Transport announced the Scottish Executive’s proposals for the tendering of Highlands and Islands Ferry Services. The proposals were subsequently put to the European Commission for consideration as required under the Regulations on State Aid to Maritime Transport.

The Committee considered the proposals on 28 February 2001 and agreed to appoint Des McNulty and Maureen MacMillan as reporters. It was agreed that the reporters would consider this issue further and report back to the Committee with proposed terms of reference for an inquiry into this issue.

On 12 June 2001 the Committee approved terms of reference for the reporters as follows:

Reporters will investigate

- the justification for and implications of the decision to tender lifeline ferry services in order to comply with EC guidelines on State aid in maritime transport.
- the development of the service specification for these services
- the need for an independent regulator, and an appropriate operator of last resort
- the structural, organisational and service delivery implications of this decision (including employment, pensions and Transfer of Undertakings (Protection of Employment) (TUPE) Regulations issues relating to Caledonian MacBrayne staff and the need for the service to be integrated with other modes of transport)

In addition to appointing reporters, the Committee also took evidence on the proposals from the Highlands and Islands Strategic Transport Partnership, local authorities, trade unions, and representatives of Caledonian MacBrayne on 18 June 2001, and the Minister for Transport and officials on 26 June 2001.
Reporters Work

Reporters met informally with the Minister for Transport on 3 April 2001, and received background briefing on the issues from Executive officials on 28 April 2001.

On 11 July 2001 Reporters travelled to Brussels. They attended a meeting at Scotland Europa where CalMac representatives delivered a presentation followed by a question and answer session with participants from local authorities, Scotland Europa, the Scottish Executive and MEPs. Reporters also met with officials of the European Commission later that day to discuss issues surrounding the tendering process.

During the 2001 Summer Recess reporters travelled to the Highlands and Islands and Argyll and Bute, and engaged in discussions with local communities regarding the current proposals. Reporters also received additional written submissions from Professor Neil Kay of Strathclyde University.

The Executive has appointed two sets of consultants to take forward matters relating to the tendering process. Burness Corlett and Partners (Maritime Consultants) were appointed to take forward the development of the service specification, reporters met with representatives of this firm on Tuesday 11 September 2001. Shepherd & Wedderburn WS and PriceWaterhouseCooper are taking forward the development of the structuring of the Vessel Owning Company (VesCo) and the Operating Company (OpCo), reporters met with representatives of these firms on 8 November 2001.

On 19 December 2001 the Committee considered and agreed a reporters’ trip to Orkney where a similar, although much smaller scale, tendering exercise has been undergone in relation to the Northern Isles ferry services. During the 2002 February recess reporters travelled to Orkney and engaged in discussions with representatives of local authorities and service users to gain an insight into the tendering process and lessons that might be applied to the tendering process for the Highlands and Islands ferry services.

Reporters’ Interim Report

In September 2001, reporters made an interim report on the key issues emerging from Committee evidence taking sessions and reporters meetings prior to this date. The Committee as a whole considered the recommendations of the report at its meeting on 26 September 2001.

The Committee agreed to endorse the reporters’ report and forward it to the Executive. Lewis Macdonald MSP, the then Deputy Minister for Transport, issued a formal response to the report on 21 November 2001.

Summaries of both the reporters’ interim report and the Executive’s response to it are attached at Annex A and Annex B respectively.
Draft Service Specification

It is now anticipated that the Executive will release the draft service specification for the Highlands and Islands Ferry Services network towards the end of June. The Executive intends to consult on the draft service specification for 12 weeks.

The Committee indicated at its meeting on 26 September 2001 that it wished to be involved in the consultation on the draft service specification, and that the reporters would progress this matter in the first instance. The Committee further agreed, at its meeting on 30 January, that the reporters would take responsibility for reporting back to the Committee once the draft service specification has been published.

It is proposed that the reporters, on behalf of the Committee, consult further on the specification during the Summer Recess and report back to the Committee in September 2002. Details of proposed reporters’ work is set out below.

It is proposed that the Committee as a whole could then take evidence from the Deputy Minister for Enterprise, Transport and Lifelong Learning on the specification. Reporters would then produce a report on the specification for the Committee to consider and amend as necessary. This report could then be submitted to the Scottish Executive’s consultation.

Proposed Reporters’ Work

Reporters consider that it would be useful to meet with those Executive officials and representatives of the consultants who are taking forward the development of the service specification in order to discuss the main proposals and aims of the service specification. These meetings would take place during the consultation period.

Reporters also consider that it would be useful to meet with those Executive officials and representatives of the consultants who are taking forward the development of the structuring of VesCo and OpCo. Although many of the key proposals for VesCo and OpCo are to be released within the draft service specification certain issues (being taken forward by consultants) regarding the structuring of the VesCo and the OpCo may fall outwith the remit of the service specification. Consequently reporters consider it important to discuss these proposals with the consultants and the Executive.

Reporters have also expressed an interest in carrying out a trip to the Clyde and Western Isles area during the consultation period. Reporters are of the view that valuable information could be gained from speaking to those who will be involved in the tendering process regarding the possible impact of the proposed service specification. It is proposed that reporters meet with local authorities, representatives of local service users, economic development bodies, trade unions and Caledonian MacBrayne staff.

Members should note that the proposed reporters trip to the Clyde and Western Isles will require approval from the Convener’s Liaison Group.
Conclusion

It is recommended that the Committee:

a) agree to proposals for the consideration of the tendering of Highlands and Islands ferry services as outlined above;

b) agree that reporters should undertake consultation and travel over the Summer Recess as outlined above;

c) agree that the Convener and Reporters should work with the clerks to bring forward a bid for CLG to obtain approval for travel.
REPORTEES’ INTERIM REPORT – KEY CONCLUSIONS

The Justification for Competitive Tendering

Groups such as trade unions raised doubts as to whether the competitive tendering exercise was necessary. Reporters came to the view that the tendering of the network of ferry services was necessary in order to allow for payments to be made in relation to Public Service Obligation contracts in line with Community law.

Consultation

The Executive has previously consulted on draft proposals for tendering these services in the document ‘Delivering Lifeline Ferry Services’. The Executive intends to conduct a wide-ranging consultation before this is finalised, with the objective of achieving innovation and improving service delivery. The reporters supported the objectives of the Executive and urged them to consult as widely as possible.

Issues relating to costs and transparency

Reporters noted that the Minister for Transport gave a commitment to protect current fares and levels of services. Reporters welcomed this commitment and also encouraged the Executive to examine whether there was scope for either reducing fare levels or improving levels of services within the budget for delivering these services.

Reporters noted that the OpCo should be set up in a manner that would allow it to be responsive and flexible both in providing commercial services, and in responding to the needs of communities. Reporters also noted that achieving this objective may require the OpCo to be granted a higher degree of commercial freedom than CalMac currently possesses.

Reporters raised concerns as to the transparency of current services operated by CalMac and the need to provide a financial breakdown of route costs in relation to those services.

Regulation of Service Delivery

Written evidence to the Committee from Professor Tony Prosser and Professor Neil Kay criticised the lack of a legislative framework and/or regulatory body to regulate such issues as fares, service standards and consultation with users.

The Executive have previously stated that, they do not see the need to implement primary legislation, or to appoint a regulatory body, in advance of the tender process and that they will monitor the situation over the term of the first contract and make an assessment of whether legislation is needed at that point in time. Reporters encouraged the Executive to fully examine the question of whether an independent regulator was needed, particularly in the event of the route being tendered in more than one bundle.
Reporters expressed concern regarding the accountability of the OpCo to communities. Reporters considered that any OpCo must be accountable to the communities that it serves, and responsive to their needs and concerns. The Executive was urged to consider ways of making an OpCo more responsive to its users.

Security of Service and the Need for an Operator of Last Resort

The Executive proposals envisage a split between the vessel owning company (VesCo) and the operating company (OpCo) with the VesCo leasing the vessels to the successful tenderer (OpCo). The Executive has also proposed that the VesCo operate in a management role to procure ferry services as necessary should an operator fail to deliver its contractual obligations. It is seen by reporters as essential that the Executive ensures that an operator of last resort could step in to deliver services immediately and ensure uninterrupted service provision.

Bundling Of Services

Groups giving evidence to the Committee were united in wishing to see the network tendered as a single bundle. Reporters were also supportive of these proposals, considering it likely that tendering the network as a whole would reduce concerns over “cherry picking” of routes, provision of relief vessels and integration of through ticketing and marketing services.

Local Employment Issues

Groups giving evidence to the Committee were keen to retain the expertise of the current CalMac workforce, and to ascertain the extent to which the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) will apply to any transfer of CalMac employees to a new operator.

The Minister for Transport previously stated that the application of TUPE is a legal matter which would be addressed at the time of transfer, and that issues such as this would be addressed in the draft service specification. It is understood that TUPE does not apply to the issue of pension rights, and reporters urged the Executive to investigate the pension rights of employees and provide some clarity on this issue.

Reporters noted that Regulation 3577/92/EEC allows a member state in imposing a PSO, to stipulate requirements in respect of ‘manning of the vessel’ and urged the Executive to explore the amount of flexibility that this provision allows, and to investigate to what extent they may specify matters relating to the manning of vessels in the service specification.
EXECUTIVE RESPONSE – KEY POINTS

ANNEX B

Within the response the Deputy Minister was pleased to note that the Committee’s report welcomed the Executive’s commitment to protect fares and levels of service and noted the Committee’s points about transparency. The Deputy Minister added that the Executive would be making its approach to fares explicit within the draft service specification.

In response to the Committee’s concerns regarding the length of the tendering contract, the Deputy Minister stated that it would be preferable to be able to offer a longer contract, however five years is the length of contract allowed for a PSO under EC rules.

The Deputy Minister reiterated the Executive’s intention to consult widely on the draft service specification, noting that it would be consulting with all those consulted previously in relation to its paper ‘Delivering Lifeline Ferry Services’ and any other parties who have since expressed an interest.

The Deputy Minister also detailed a number of key players who were consulted at an early stage by consultants preparing the draft specification. These included trade unions, local authorities, the Shipping Services Advisory Committees (SSACs), the Caledonian MacBrayne Users’ Consultative Committee (CMUCC), the Highlands and Islands Strategic Transport Partnership (HISTP) and VisitScotland.

In terms of the bundling of services, the Deputy Minister noted that the Executive had received confirmation of the European Commission’s views on its proposal against splitting up the CalMac network and confirmed that the network would be tendered as a whole.

The Executive stated that it could not comment on VesCo’s role as the procurer of last resort as work was still ongoing on this proposal.

The Deputy Minister reiterated the Executive’s position on the need for a service regulator, claiming that the service specification will regulate fares and service levels and the operator’s contract will establish appropriate monitoring and performance regimes. In addition, he noted that a number of organisations including HISTP will be monitoring and reporting on the quality of service provided.

Finally, on the subject of local employment, the Deputy Minister recognised the concerns of the CalMac workforce and the importance of TUPE. The Deputy Minister stated that the Executive was still considering how best to address this issue and that of pensions.
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Subject: Petition PE 421 by Mr Alasdair Nicholson on Road Equivalent Tariffs

Meeting No: 17th Meeting

Date: 22 May

Author: Note by the Acting Assistant Clerk

Introduction

1. This paper asks the Committee to consider for the first time petition PE 421 by Mr Alasdair Nicholson on Road Equivalent Tariffs.

2. The following items are attached for members’ information—
   - a copy of the petition
   - a response from the Executive to the Public Petitions Committee on PE 421
   - a copy of an Oral Parliamentary Question from Duncan Hamilton MSP on 13 December 2001 (referred to in the Executive response)

Background

3. The petition is calling for the Scottish Parliament to (a) promote and trial a Road Equivalent Tariff between the Western Isles and the mainland, and (b) actively pursue measures to implement a fair Road Equivalent Tariff system to the Scottish islands at the earliest opportunity.

4. The petitioners feel that the current highlands and islands ferry fares are excessive and have damaging effects on social and economic welfare.

5. Road Equivalent Tariff (RET) is a method of price setting which relates the fare charged for ferry transport to the cost of driving the equivalent road distance.

Progress of the Petition

6. The petition was first considered by the Public Petitions Committee on 4 December 2001. On this occasion, the Committee agreed to write to the Scottish Executive to obtain its views on the issues raised in the petition.

7. The Public Petitions Committee considered the Executive response on 5 February 2002. The Committee agreed to refer the petition to the Transport and the Environment Committee for further consideration, with the recommendation that it be examined during consultation on the draft service specification within the context of the Committee’s inquiry into the tendering of highlands and islands ferry services.
Executive Response

8. The Executive response to the Public Petitions Committee refers to an Oral Parliamentary Question from Duncan Hamilton MSP on the subject of carrying out an inquiry into introducing a road equivalent tariff scheme for Scotland’s ferries (S10-4282). The Deputy Minister for Enterprise, Transport and Lifelong Learning, Lewis Macdonald MSP, responded to the question by noting that the Executive would be setting out its preferred options for future fares policy on Clyde and the Western Isles ferry services when it consults on the draft service specification for those routes.

9. The Minister also noted that RET would require substantial alteration to the current fare structure at a time when the key priorities should be maintaining the stability and security of existing services within the framework set by European Commission regulations.

10. The Executive response also notes that the consultants commissioned by Calmac as part of its Fares Review, considered the possibility of implementing RET and concluded that it would result in a large decrease in the company’s revenue, necessitating a significant increase in subsidies from the Executive.

11. Finally, the response details the levels of subsidy currently available to Calmac and adds that the Minister considers that this level strikes the correct balance between the provision of appropriate support for lifeline ferry services and achieving value for money for the taxpayer.

Highlands and Islands Ferry Services

12. On 23 January 2001 the Minister for Transport announced the Executive’s proposals for the tendering of Highlands and Islands Ferry Services. On 28 February 2001 the Transport and the Environment Committee considered these proposals and agreed to appoint Des McNulty MSP and Maureen Macmillan MSP to act as Reporters on the tendering process.

13. The progress of this work has been dictated by the progress of the draft service specification. Committee reporters plan to begin consulting on the draft service specification for the tendering of the ferry services by the Executive as soon as it published (expected in mid-June). At this time the reporters will be considering all aspects of the service specification, including the financial arrangements underpinning it. To this end, the Reporters will be presenting a paper to the Committee in the next few weeks detailing their plans to consult on the draft specification.

Recommendation

14. Following discussion with the Reporters, it is proposed that the issues arising from the petition be taken into account as part of their consideration of the draft service specification. It is therefore recommended that the Committee agree to
take the petition into account as part of its work into the tendering of Highlands and Islands Ferry Services.
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Subject: Petition PE425 by Mrs Anne-Marie Glashan on the siting of mobile phone masts

Meeting No: 17th Meeting

Date: 22nd May 2002

Author: Note by the Acting Senior Assistant Clerk

Introduction

1. This paper asks the Committee to consider for the first time petition PE425 by Mrs Anne-Marie Glashan on the siting of mobile phone masts. A copy of the petition is also circulated for this meeting.

2. The petition suggests that there is no evidence that non-ionising radiation from mobile phone mast base stations is safe. The petition also expresses concern that no long-term epidemiological studies have been carried out in this area. The petition therefore requests that the Scottish Parliament adopts a precautionary approach of the kind identified in the Transport and the Environment Committee’s report into telecommunications developments. The petition requests an end to the siting of masts in densely populated areas or within 600 metres of schools, residential care homes or hospitals.

Progress of the Petition

3. The petition was considered by the Public Petitions Committee (PPC) at its meeting on 18 December 2001, when the Committee agreed to seek the views of the Scottish Executive on the issues raised in the petition, asking in particular whether there are any on-going studies or available research into the safety of emissions from base stations.

4. The Public Petitions Committee also agreed to seek the views of the Transport and Environment Committee on whether it was content with the reaction of the Executive to the recommendations relating to emissions contained in its report on planning procedures for telecommunications developments. Members should note that the PPC has not yet formally referred the petition to the Transport and the Environment Committee for action. The PPC is only seeking the views of the Committee on this specific point at this stage.

Background Information

5. The Transport and the Environment Committee’s report on telecommunications developments was published on 29 March 2000. The full report, including the oral and written evidence received by the Committee can be found on the Transport
and the Environment Committee’s home page1 on the Parliament’s website. Relevant extracts from the report relating to the health impact of emissions can be found at Annex A of this covering note (page 4). A summary of the recommendations in the Committee’s report relating to health issues was set out at the beginning of the report, and this summary is reproduced below:

The Committee recognises that there is currently no conclusive scientific evidence on non thermal effects and the risk to public, but the level of public concern is reflected in the responses to the inquiry. The Committee recognises the complex issues of public health, including the perceived effects and recognises the difficulties in securing evidence. Based on the evidence received the Committee considers that there is reasonable doubt about the health risks and recommends that health should be viewed as a material planning consideration and a precautionary approach should be adopted at a national level allowing for local flexibility. The Committee considers that areas such as schools, nurseries, hospitals, and residential areas may be considered sensitive for environmental health reasons. The Committee recommends that in taking a precautionary approach local authorities should consider a hierarchy of preferred locations for telecommunications equipment that, where possible, avoid more densely populated areas such as residential areas and weight towards more sparsely populated areas e.g. industrial areas. However, the Committee does not currently believe that there is sufficient scientific evidence on which to base a recommendation on the implementation of mechanisms such as cordon sanitaire.

6. The Scottish Executive formally responded to the Committee’s report on 4 September 2000. The relevant extracts of this response relating to health matters are reproduced at Annex B of this covering note (page 9). The full text can be found on the Executive’s website2.

7. New planning guidance from the Scottish Executive relating to radio telecommunications was set out in NPPG 19, which was published in July 2001. Again, the full text can be found on the Executive’s website3. Relevant extracts are set out at Annex C of this covering note (page 11).

8. The response from the Scottish Executive to the Public Petitions Committee’s request for further information on Petition PE425 is also attached at Annex D of this covering note for members’ information.

Recommendation

9. The Public Petitions Committee is asking the Committee for its views on whether it was content with the reaction of the Executive to the recommendations relating to emissions contained in its telecommunications developments report. It would be possible to convey any response via a letter from the Transport and the Environment Committee Convener to the Convener of the PPC or by referring the

1 http://www.scottish.parliament.uk/official_report/cttee/trans-00/trr00-03-01.htm
2 http://www.scotland.gov.uk/library3/planning/rter-00.asp
PPC to the relevant extract from the Official Report of the Transport and the Environment Committee’s meeting.

10. The Committee is invited to consider its response to the Public Petitions Committee.

Alastair Macfie
Acting Senior Assistant Clerk
Transport and the Environment Committee
May 2002
ANNEX A


The Health Effects of Emissions: Thermal and non thermal (biological)

70. The thermal effects of electromagnetic radiation have been outlined to the Committee and stated by a number of witnesses including the NRPB and Dr Ramsay of the Scottish Centre for Infection and Environmental Health (SCIEH). In presenting oral evidence to the committee Dr Ramsay defined the thermal effects of EMF’s as “those are effects induced by the absorption of energy, resulting in an increase in temperature in tissues”. (33) The thermal or heating effects appear to be uncontested and it is to these that the current and proposed guidelines with respect to emissions applies. These guidelines for maximum exposure to microwaves are intended to avoid harmful heating from telecommunications equipment (including masts).

(33) Official Report 17 November 1999 Column 228

71. Some scientists and health experts have suggested that there are other non thermal effects that relate to low levels of radiation emissions. Dr Ramsay explained that the other effects "..which are somewhat more contentious, are what is known as non thermal effects, because no increase in temperature is detected" he suggested that "experimental evidence shows non thermal effects to be wide ranging." (34) However, in their written submission SCIEH state that "non thermal effects are not sufficiently well accepted to be considered useful as a basis for setting guidelines on reducing human exposure at present."(35)

(34) Official Report 17 November Column 228
(35) Volume 2, Annexe D, "Submission from Scottish Centre for Infection and Environmental Health"

72. The NRPB has stated that their "standards are based on established thermal effects of radiofrequency radiation". (36) However the NRPB agreed that "..there is a need to examine radiation from those specific technologies in well controlled epidemiological and animal studies to discover whether there are implications that we do not believe exist at present ." (37)

(36) Official Report 17 November 1999 Column 266
(37) Official Report 17 November Column 271

Concerns on health matters

73. Dr Ramsay stressed the public health concern over the presence of EMFs emanating from telecommunications development. He suggested that in the absence of conclusive evidence a precautionary approach should be adopted. (38) This concern was reflected in many of the submissions and organisations supporting a precautionary approach to health included Greater Glasgow Health Board, the British Medical Association, Friends of the Earth Scotland and CoSLA.
Many witnesses called for central guidance on how planning authorities should deal this matter.

(38) Official Report 17 November Column 236-237

74. Some witnesses suggested the need to introduce exclusion zones, however, many recognise the practical difficulties of this and the potentially arbitrary nature of defining boundaries. Friends of the Earth stated that they were not advocating a specific exclusion zone and noted that "There is still a difficulty in achieving a scientific consensus on the exact distance that would be appropriate." (39) CoSLA stated that "We can define in guidance what the sensitivities might be but it is difficult to draw hard and fast boundaries across a range of factors." (40)

(39) Official Report 10 November 1999 Column 210
(40) Official Report 1 December 1999 Column 288

75. In addition, the House of Commons Science and Technology Select Committee, in their recent inquiry, also concluded that the research programme in the UK is completely inadequate to underpin the policy decisions that have been made. (41)


76. The Committee is also aware of the ongoing inquiry of the Independent Expert Group on Mobile Phones, set up by the Department of Health to assess the current state of research into possible health risks from the use of mobile phones. The Committee understands that this group is due to report in April 2000.

77. The Committee recognises that there is currently no conclusive scientific evidence on non thermal effects and the risk to public, but the level of public concern is reflected in the responses to the inquiry. The Committee recognises the complex issues of public health, including the perceived effects and recognises the difficulties in securing evidence.

78. Based on the evidence received the Committee considers that there is reasonable doubt about the health risks and:

**RECOMMENDATION 19: The Committee recommends** that a precautionary approach should be adopted for telecommunications developments based on health issues, which should be regarded as being a material consideration within the planning framework for this purpose.

**RECOMMENDATION 20: The Committee recommends** that the Scottish Executive should provide clear and detailed guidance to local authorities on how health should be incorporated into the planning system as a material consideration, including the weight that should be given to it, and guidance should be provided on the application of a precautionary approach.

86. From the evidence submitted the Committee considers that there are areas that may be considered as sensitive from an environmental health point of view. These include residential areas, schools and nurseries and hospitals.
RECOMMENDATION 21: The Committee recommends that in developing a policy framework for telecommunications development using a precautionary approach, local authorities should establish a hierarchy of preferred locations for telecommunications equipment (including antennae and masts) that, where possible, avoid more densely populated areas such as residential areas and weight towards more sparsely populated areas e.g. industrial areas. Where it is necessary to put masts in more densely populated areas local authorities should be sensitive to siting, avoiding proximity to existing populated buildings where possible.

87. However, the Committee does not currently believe that there is sufficient scientific evidence on which to base a recommendation on the implementation of mechanisms such as cordon sanitaire.

88. The Committee recognises that a number of studies are ongoing and there is a need for additional research and for continual monitoring of the position of research on this issue, therefore:

RECOMMENDATION 22: The Committee recommends that research into the health impacts of electromagnetic fields and telecommunications development should be monitored by the Scottish Executive and taken into account when the Scottish Executive and planning authorities are drawing up their policies on this matter and that health as an issue should be kept under constant review within the planning framework.

89. A number of witnesses raised concerns with respect to the role and status of NRPB advice suggesting that it is viewed as having statutory authority. Friends of the Earth indicated that the governmental departments...the Health and Safety Executive, Department of Health, DTI, Department of Environment Transport and the Regions and Scottish Executive Development Department are "now deferring completely to the NRPB" on the health issue. This is supported by the recent judgement in the case of Tandridge District clearly stated: "In making [a] decision, they (the local authority) would have to take into account the advice of the NRPB." This perception and application of NRPB’s advice contrasts with the position of the NRPB who clearly state that they are an advisory body only and planning issues are not for them. (42)

(42) Official Report 17 November 1999 Column 256

90. The Committee concludes that despite issuing a circular on health and EMFs, there is a lack of clear guidance from government on this issue.

RECOMMENDATION 23: The Committee recommends that clear guidance on the status to be given to the advice of the NRPB should be incorporated into guidance referred to in recommendation 21. Such guidance should be reviewed and issued as a matter of priority in the light of the Committee’s recommendations and the issues raised in this report.
91. The Committee supports the recommendation of the House of Commons Select Committee on Science and Technology that the UK government adopt the ICNIRP recommended guideline limits for microwave exposure as a precautionary measure and supports the recommendation that government ensures that a higher priority is given to the research programme into the health impacts of mobile phones. The Committee agrees that it is essential that there is an independent and appropriately funded research programme which is seen to be objective.

92. The Committee understands that the recommendation of the Select Committee to reduce permissible emission levels by a factor of five, bringing this in line with international standards, would not cause significant difficulty for telecommunications operators: when questioned, operators stated that they were comfortable with the outcome of the report, suggesting it gave a balanced and objective view and that the recommendations were fair.

**RECOMMENDATION 24:** The Committee recommends that minimum standards in permissible emission levels in the UK should be made consistent with the recommendations of the ICNIRP, as recommended by the House of Commons Select Committee i.e. a reduction in permissible levels by a factor of five.

**RECOMMENDATION 25:** The Committee further recommends that in considering telecommunications developments planning authorities are required to consult with Environmental Health Departments who should work with Health Boards and would be responsible for advising on potential public health risk arising from developments. This advice should be based on the status of international scientific and medical research and should take into account the possible cumulative effect on levels of radiation from co-siting of transmitters.

93. The Committee understands that under health and safety legislation telecommunications developers / operators are required to prepare a risk assessment for individual installations.

**RECOMMENDATION 26:** The Committee recommends that each planning application for a telecommunications development should be accompanied by the risk assessment report and this should be submitted to the Environmental Health Department, by the local planning authority to assess the health impact of the proposal and make a recommendation to the local planning authority. In providing guidance to the local planning authority the Environmental Health Department should be required to consult with the relevant Health Board.

**RECOMMENDATION 27:** The Committee recommends that the Scottish Executive provides guidance to Environmental Health Departments and to the Health Boards on their role in providing advice and their involvement in the development and implementation of monitoring strategies.
ANNEX B

Extract from Scottish Executive’s Response to the Transport and the Environment Committee’s Report – September 2000

Provision of guidance and advice on health issues including the application of a precautionary approach

The Executive’s interim response indicated that it would be necessary to await the Stewart Report before commenting on health issues and the adoption of a precautionary approach.

A key conclusion from the Stewart Report is "that the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the guidelines". This, we believe, should be largely reassuring to the public even though the report goes on to say "However, there can be indirect adverse effects on their well-being in some cases". The Stewart Report explains that there are uncertainties in current scientific knowledge and "that although it seems highly unlikely that the low levels of radio frequency radiation from base stations would have significant, direct adverse effects on health, the possibility of harm from exposures insufficient to cause heating of tissues cannot yet be ruled out with confidence". The Stewart Report suggests that anxiety about the scientific uncertainties being ignored may affect the well-being of some.

A substantial research programme (50% funded by the industry) is being embarked upon which will, over time, reduce these uncertainties. The Scottish Executive is contributing to the research programme and will keep in touch with developments.

The Scottish Executive and the UK Government concur with the recommendation by each of the Committees that, as a precaution, the ICNIRP guidelines should be adopted in place of those of the NRPB. As far as public exposure to radio frequency radiation is concerned, this provides a fivefold reduction in the maximum permitted field strength. Our current thinking is that operators, when applying for planning permission or advising planning authorities of proposals that qualify as permitted development, will be required to certify that the installation will comply with ICNIRP guidelines. This is analogous to applicants for planning permission certifying that they have conducted the requisite neighbour notification procedures. Planning authorities will be able to rely on the independent audit role of the Radiocommunications Agency regarding the guidelines, but are unlikely to be in a position to monitor compliance themselves.

Planning guidance will include information about the consideration of health issues in development planning and development control.

A further precautionary measure would be to encourage operators and planning authorities to adopt a sequential approach to identifying appropriate sites for new base stations. This might work on the basis that sensitive locations such as schools, hospitals and residential areas might be seen as less desirable sites although this
poses potential perceptual problems in relation to locations such as schools that already have base stations on them. In this regard it is important to note that the Stewart Report does not recommend that there is any need to remove existing equipment from schools or indeed from any other sensitive location. Nor does it recommend that there is any need to introduce a moratorium pending the introduction of revised planning arrangements.

Equally, we believe that the precautionary measures outlined here, taken together, represent an appropriate degree of precaution given the conclusions and recommendations of the Stewart Report. There is sensitivity surrounding the handling of new proposals in advance of the new NPPG and secondary legislation. In response to concerns expressed that mobile telephone companies have accelerated their applications to avoid the new planning regime Scottish Executive officials have monitored the situation. There is no evidence that this is happening. There are claims that some planning authorities are currently not determining planning applications for base stations until a new planning regime is in place. Given that the Stewart Report recommends neither a moratorium nor the removal of any existing masts, we see no need for such unilateral action by planning authorities. We have written to them to that effect.
ANNEX C

Extracts from NPPG 19 : Radio Telecommunications – July 2001

Health Issues

19. In 1999, the Government asked the National Radiological Protection Board to set up the Independent Expert Group on Mobile Phones (IEGMP). This Group considered concerns about health effects from the use of mobile phones, base stations and transmitters. They conducted a rigorous and comprehensive assessment of existing research and gathered a wide range of views. The Group published its report, 'Mobile Phones and Health' (The Stewart Report) on 11 May 2000.

20. In respect of base stations, the report concluded that "the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the ICNIRP (International Commission on Non-Ionising Radiation Protection) public exposure guidelines. However, there can be indirect adverse effects on their well-being in some cases". It also said that the possibility of harm could not be ruled out with confidence and that the gaps in knowledge were sufficient to justify a precautionary approach.

21. The IEGMP recommended a precautionary approach, comprising a series of specific measures, to the use of mobile phone technologies until there is more detailed and scientifically robust information on any health effects. The Government’s response to the IEGMP report includes acceptance of the recommended precautionary approach. Responses to specific recommendations include:

- Emissions from mobile phone base stations should meet the ICNIRP guidelines for public exposure as expressed in the limits set in the EU Council recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields. Most base stations already meet the guidelines, which are more stringent than the former guidelines, and all new base stations will do so.
- Forming a national database giving details of all base stations and their emissions. Such a database will be established and maintained by the Radiocommunications Agency and it is intended that information relevant to each site including emission levels, will be made available to the public and planning authorities.
- Having an independent audit of emissions undertaken to give the public confidence that base stations do not exceed the ICNIRP public exposure guidelines. The surveys are being undertaken by the Radiocommunications Agency (see paragraph 15). The initial focus of the audit is schools with base stations on their premises. The surveys commenced in December 2000 and 29 have been completed, with all measurements so far showing emissions to be hundreds of times below the ICNIRP guidelines. The results are published on the RA website at www.radio.gov.uk. The RA intend to complete about 100 surveys by the end of 2001. A report will then be produced identifying any emerging trends and decisions will be taken on how to progress the audit.
Taking forward the Stewart Report's recommendation regarding the zone where the concentration of radio waves is higher than elsewhere. The IEGMP recommended that the concentration should not fall on any part of a school's grounds or buildings without agreement from the school and parents; and that, if for an existing base station, agreement could not be obtained, the antennas may have to be re-adjusted accordingly. Network operators have agreed to provide schools with information on the pattern of radio wave emissions on request.

- Having clear exclusion zones around all base station antennas to protect the public from exposure to radio frequency radiation above the ICNIRP public exposure guidelines. (These exclusion zones relate to an area directly in front of and at the height of the antennas). The mobile operators are developing and will be deploying common signage for sites where there is access to the zones.

- Commissioning a comprehensive programme of further research on health matters. The first invitation to submit research projects for funding under the Government's Mobile Telecommunications and Health Research Programme was issued in February 2001. For more information see www.dti.gov.uk/ost/link/mobhealth.htm

- Issuing a leaflet to provide information for the consumer which will inform choices about their own and their families' use of the new mobile phone technologies. (Two leaflets, Mobile Phone Base Stations and Health & Mobile Phones and Health have been issued by the Scottish Executive/Department of Health.)

22. Making sure that these steps are taken is the responsibility of the Government, the telecommunications regulating authorities and the mobile industry. They are not matters for the planning system but are included here for information. The wider health issues played a prominent part in the consideration of controls over telecommunications development and particularly in the recommendations of the reports of the Transport and the Environment Committee and the IEGMP. The role of the planning system regarding emissions and health is dealt with in paragraphs 53 – 55 below.

Emissions, Health and the Role of the Planning System

53. The planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radiofrequency (RF) radiation are controlled and regulated under the appropriate legislation by the DTI and the Radiocommunications Agency. The Health and Safety Executive also have responsibilities (see paragraph 17). With these mechanisms in place, together with the arrangements set out below, the Scottish Executive concludes that it is not necessary for planning authorities to treat RF emissions as a material consideration. The role of the planning system in addressing public concerns about the siting and design of mobile phone base stations is dealt with in paragraph 40.

54. To demonstrate to planning authorities that the known health effects have been properly addressed, applications for planning permission involving antennas must be accompanied by a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to
radiofrequency radiation. The certification arrangements also apply to antennas installed under the relevant permitted development rights. Over and above this requirement, further reassurance may be taken from the fact that the RF power outputs from mobile phone base stations are set at the minimum levels commensurate with effective service provision and the technical conditions under which base stations operate, including their maximum power, are specified in the operator’s Wireless Telegraphy licences. These technical requirements ensure that the risk of interference within the network and with other radio networks is minimised. Statutory powers to control outputs and ultimately to switch off radio transmitters are exercised on behalf of the Secretary of State for Trade and Industry by the RA. Hence there should be no need for planning authorities to consider power outputs. Additionally, independent audits of base station emissions are carried out by the RA as described at paragraph 21 above.

55. It is the responsibility of the Scottish Executive and the UK Government to decide what measures are required to protect public health. The Executive’s approach and policy described above are a practical and proportionate response to this matter. Provided this guidance is followed it is unlikely that planning authorities could find justification for applying extended or alternative requirements either in development plans or development control. This approach and policy will also be applied in the determination of appeals.
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Subject: Petition 357 – Petition by Aberdeen City Council on investment in Transport Infrastructure

Meeting No: 17th Meeting

Meeting Date: Wednesday 22 May 2002

Introduction

Petition PE 357 by Mr Douglas Paterson, Chief Executive of Aberdeen City Council, requests that the Parliament support calls for the necessary investment in transport infrastructure in the Aberdeen area. The following papers are attached for members’ information:

- a copy of the petition;
- a written submission from the Scottish Executive;
- a written submission from the petitioners;
- a further submission containing additional information supplied subsequent to the Committee meeting of 9 November 2001;
- an extract from the Official Report of the Committee meeting of 19 December 2001;
- an extract from the Official Report of the Committee meeting of 1 May 2002.

Progress of the Petition

The Public Petitions Committee first considered the Petition on 8 May 2001. The PPC agreed to seek the views of the Scottish Executive on the issues raised and on the current status of talks with NESEDEP (North-East Scotland Economic Development Partnership, the predecessor organisation of NESTRANS) on these issues. The PPC considered the response from the Executive at their meeting on 19 June and agreed to refer the petition to this Committee.

The Transport and the Environment Committee first considered the petition on 5 September, and agreed to take evidence from the North-East Scotland Transport Forum (NESTRANS) which comprises representatives of Aberdeen City Council, Aberdeenshire Council, the Aberdeen Chamber of Commerce, and Scottish Enterprise Grampian.

The Committee heard this evidence at their meeting in Aberdeen on 9 November 2001. After hearing this evidence the Committee noted that the witnesses had offered to provide supplementary written evidence to the Committee. The Committee agreed to defer consideration of its response to Petition PE357 until this evidence had been received.

The Committee considered the further evidence from the petitioners at its meeting on 19 December 2001. The Committee agreed to take evidence from the Minister for
Enterprise, Transport and Lifelong Learning in order to raise the points that had emerged in evidence. The Committee agreed to question the Minister on areas of concern outlined by NESTRANS; how the Modern Transport System (MTS) envisaged by NESTRANS fits into the Transport Delivery Plan; the development of national transport priorities; and issues arising from the petition.

The Deputy Minister for Enterprise, Transport and Lifelong Learning gave evidence to the Committee at its meeting on 1 May 2002.

**Progress of the Modern Transport System (MTS)**

NESTRANS is currently developing certain proposals from its integrated Modern Transport System (MTS) using the Scottish Transport Appraisal Guidance (STAG), which is designed to allow evaluation of schemes across different modes of transport.

Some of the proposals within the MTS have already been taken forward, as can be seen from the most recent NESTRANS submission and also within the Transport Delivery Plan.

The Executive’s previously stated position is that officials are in regular contact with NESTRANS regarding the proposals for an integrated Modern Transport System (MTS).

On 14 March 2001 the Minister for Transport and Planning announced a £1.25 Million package to assist the MTS development.

In addition to this, on 19 March 2002 the Minister for Enterprise, Transport and Lifelong Learning announced a £585,000 package to assist NESTRANS in the further development of the MTS. On 19 March, the Minister also allocated £600,000 from the Integrated Transport Fund (ITF) to the development of Aberdeen City Council’s Urban Realm projects, which are proposals aimed at traffic reduction and the development of the North East economy.

**The Deputy Minister for Enterprise, Transport and Lifelong Learning - Oral Evidence**

The Deputy Minister for Enterprise, Transport and Lifelong Learning updated the Committee on the Aberdeen transport infrastructure at its meeting on 1 May.

The Deputy Minister informed the Committee that NESTRANS is expected to produce appraisal outputs for each of the proposals from the MTS appraised under STAG by the end of the year. He explained that the proposals will be assessed against national criteria on the basis of these outputs, and these assessments will be the basis upon which decisions shall be made. Consequently, the Deputy Minister stated that decisions as to whether to implement any of the proposals currently being appraised under STAG, including the Aberdeen Western Peripheral bypass, could not be taken until after these appraisals are completed.
The Deputy Minister went on to detail two other measures recently undertaken to ensure that Aberdeen’s transport infrastructure can be considered in context. Firstly, he noted the extension of the traffic model for Scotland to include Aberdeen. The Deputy Minister explained that the extension of the model would allow the measurement of the character and volume of traffic in Aberdeen to be compared with other urban centres in Scotland. Secondly, he noted the extension of the remit of the Strategic Rail Authority to cover the Perth-Dundee-Aberdeen rail route.

In terms of public transport, the Deputy Minister mentioned the investments from the public transport fund and the integrated transport fund that have already been made towards MTS projects such as the Kingswells park-and-ride facility. The Deputy Minister pointed out that NESTRANS is entitled to make further proposals for funding through these funds.

The Deputy Minister noted that the transport delivery report identifies tackling urban and inter-urban congestion as the key objective and listed fixing Aberdeen’s congestion problems as one of ten priorities. He emphasised that this recognition owed a great deal to the work of NESTRANS and the constructive approach that it had taken to working in partnership with the Scottish Executive.

**Report on Stage 1 of the 2003-04 Budget Process**

The Committee recently published its report on Stage 1 of the 2003-04 Budget Process. Among its recommendations, the Committee stated that assuming the projects identified by the Executive in the Transport Delivery Report stand up to STAG analysis, it can be expected that the transport budget will need to be increased by a significant proportion in order for these projects to be realised. The Committee also stated in its report that it would welcome reassurance from the Executive that this long-term funding commitment exists and look to the outcome of the Spending Review process to offer evidence of that commitment.

The Committee also noted that the role of the regional transport partnerships could be central to improving the effectiveness of planning of transport, and it may be the case that these need to be underpinned by legislation.

In terms of the improvement in the level of bus service provision at a local level, the Committee concluded in its report that there may be a role for the Integrated Transport Fund whereby local authorities have to bid for funding on the basis of costed proposals.

**Recommendation**

At its meeting on 1 May 2002, the Committee agreed to consider how it should proceed with petition PE 357 in the context of NESTRANS’ six key requests.

NESTRANS has specifically requested that the Committee:

a) acknowledges the transport problems of Aberdeen and the north east and the need for these to be addressed in the national economic interest;
b) recognises the need for upgrading of the strategic road network in the north east and the Executive’s responsibility for this;

c) undertakes a review of the Public Transport and Integrated Transport Funds to include measures which contribute to modal shift;

d) indicates support to the regional transport strategy set out in NESTRANS’ proposals for the Modern Transport System and as detailed through the Council’s Local Transport Strategies;

e) encourages the Executive to continue and enhance their national travel awareness campaigns working closely with regional interests such as NESTRANS; and

f) calls for significantly increased funding for transport in Scotland to meet the needs of regional transport strategies as demonstrated in Aberdeen and the north east.

The Committee is invited to consider these requests in light of the evidence it has taken on petition PE 357 and its recent budget report.

It is suggested that the Committee may wish to conclude its work on this petition by agreeing that the Convener should write to Mr Paterson on these matters.

Rosalind Wheeler
Acting Assistant Clerk